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No. 42] NEW DELHI, SATURDAY, OCTOBER 15, 1988/ASVINA 23, 1910

इस भाग में अलग पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में
रखा जा सके

Separate Paging is given to this Part in order that it may be filed as a
separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

(रक्षा मंत्रालय को छोड़ कर) भारत सरकार के मंत्रालयों द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications issued by the Ministries of the Government of India (other than
the Ministry of Defence)

विधि और न्याय मंत्रालय
(विधि कार्य विभाग)

नई दिल्ली, 21 सितम्बर, 1988

सूचना

का.आ. 3058—नोटरीज नियम, 1956 के नियम 6 के अनुवर्ण में सक्षम प्राधिकारी द्वारा यह सूचना दी जाती है कि श्री रामेश्वर दाम आहलुवालिया ने उक्त प्राधिकारी को उक्त नियम के नियम 4 के अधीन एक आवेदन इस बात के लिए दिया है कि उसे अम्बाला शहर में व्यवसाय करने के लिए मोटरी के रूप में नियुक्त किया जाए।

2. उक्त व्यक्ति को मोटरी के रूप में नियुक्ति पर किसी भी प्रकार का आपेक्षित इस सूचना के प्रकाशन के चौदह दिन के भीतर लिखित रूप में भेदे पास भेजा जाए।

[सं. 5(29)/88-न्याय.]
के.डी. सिंह, सक्षम प्राधिकारी

MINISTRY OF LAW AND JUSTICE

(Department of Legal Affairs)

New Delhi, the 21st September, 1988

NOTICE

S.O. 3058.—Notice is hereby given by the Competent Authority, in pursuance of rule 6 of the Notaries, 1956 that

2491 G/88—1

application has been made to the said Authority, under rule 4 of the said Authority, under rule 4 of the said Rules, by Shri Rameshwar Dass Ahluwalia for appointment as a Notary to practise in Ambala City

2. Any objection to the appointment of the said person as a Notary may be submitted in writing to the undersigned within fourteen days of the publication of this Notice.

[No. F. 5(29)/88-Jud.]

K. D. SINGH, Competent Authority

कार्मिक और लोक शिकायत तथा पेंशन मंत्रालय

(कार्मिक और प्रशिक्षण विभाग)

नई दिल्ली, 22 सितम्बर, 1988

आदेश

का. आ. 3059.—केंद्रीय सरकार दिल्ली विशेष पुलिस स्थापन अधिनियम, 1946 (1946 का अधिनियम सं. 23) की धारा 6 के साथ पठित-पारा 5 की उपधारा द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मध्य प्रदेश राज्य सरकार की सहमति से, दिल्ली विशेष पुलिस स्थापन के सर्वसों की शक्तियों और अधिकारिता का विस्तार निम्नलिखित अप-राधों के अन्वेषण के लिए सम्पूर्ण मध्य प्रदेश राज्य पर करती है:—

(क) भारतीय दंड संहिता, 1860 (1860 का 45) की धारा 169 के अधीन दंडनीय अपराधों।

(ख) उपर वर्णित एक या अधिक अपराधों के संबंध में या उनसे संशक्त प्रयत्नों, दुष्प्रेरणा और षड्यंत्रों के संबंध में और उन्हीं तथ्यों से उत्पन्न होने वाले वैसे ही संभवतः के अनुक्रम में किए गए अन्य अपराध या अपराधों के संबंध में।

[संख्या 228/24/88--ए. पी. डी. II]

जी. सीतारामन, अवर सचिव

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES & PENSIONS

(Department of Personnel & Training)

New Delhi, the 22nd Sept. 1988

ORDER

S.O. 3059.—In exercise of the powers conferred by sub-section (1) of section 5, read with section 6, of the Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946) the Central Government, with the consent of the State Government of Madhya Pradesh, hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment to the whole of the State of the Madhya Pradesh for investigation of offences as hereunder:—

(a) Offences punishable U/s. 469 of the Indian Penal Code, 1860 (45 of 1860).

(b) Attempts, abetments and conspiracies in relation to or in connection with one or more of the offences mentioned above and any other offence or offences committed in the course of the same transaction arising out of the same facts.

[No. 228/24/88-AVD-III]

G. SITARAMAN, Under Secy.

नई दिल्ली, 29 सितम्बर, 1988

का. आ. 3060--राज्यपति, संविधान के अनुच्छेद 309 के परन्तु क द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सिविल सेवा (वर्गीकरण, नियंत्रण और अपील) नियम, 1965 का और संशोधन करने के लिए निम्नलिखित नियम बनाते हैं, अर्थात्:—

1. (1) इन नियमों का संक्षिप्त नाम केन्द्रीय सिविल सेवा (वर्गीकरण, नियंत्रण और अपील) संशोधन नियम 1988 है।

(2) ये राजपत्र में प्रकाशन की तारीख को प्रवृत्त होंगे।

2. केन्द्रीय सिविल सेवा (वर्गीकरण, नियंत्रण और अपील) नियम, 1965 की अनुसूची के भाग 2 में क्रमशः डाक अधीक्षक सेवा, समूह "ख" और डाकपाल सेवा समूह "ख" से संबंधित क्रम संख्यांक 7 और 8 के सामने स्तम्भ 3 और 4 में "महानिदेशक, डाक तार" शब्दों के स्थान पर "महानिदेशक, डाक" शब्द रखे जाएंगे।

[संख्या 11012/1 1/68--स्था. (क)]

टिप्पण--मूल नियम/आदेश, अधिसूचना सं. 7/2/83--स्था. (क), तारीख 20.11.1965 द्वारा प्रकाशित किए गए थे।

तत्पश्चात् उक्त संशोधन निम्नलिखित संख्यांक और तारीख के अधीन भारत के राजपत्र, भाग 2, खण्ड 3, उपखण्ड (ii) में प्रकाशित अधिसूचनाओं द्वारा किया गया:—

1966	का. आ. 1149	तारीख 13-4-66
	का. आ. 1596	तारीख 4-6-66
	का. आ. 2007	तारीख 9-7-66
	का. आ. 2648	तारीख 2-9-66
	का. आ. 2854	तारीख 1-10-66

1967	का. आ. 1282	तारीख 15-4-67
	का. आ. 1457	तारीख 29-4-67
	का. आ. 3253	तारीख 16-9-67
	का. आ. 3530	तारीख 7-10-67
	का. आ. 4151	तारीख 25.11-67
1968	का. आ. 821	तारीख 9-3-68
	का. आ. 1441	तारीख 27-4-68
	का. आ. 1870	तारीख 1-6-68
	का. आ. 3423	तारीख 28-9-68
1969	का. आ. 5008	तारीख 27-12-69
1970	का. आ. 397	तारीख 7-2-70
1971	का. आ. 35217	तारीख 25-9-71
	का. आ. 249	तारीख 1-1-72
1972	का. आ. 990	तारीख 22-4-72
	का. आ. 1600	तारीख 1-7-72
	का. आ. 2789	तारीख 14-10-72
1973	का. आ. 929	तारीख 31-3-73
1974	का. आ. 1649	तारीख 6-7-74
1976	का. आ. 2742	तारीख 31-7-76
	का. आ. 4664	तारीख 11-12-76
1977	का. आ. 3062	तारीख 8-10-77
	का. आ. 3573	तारीख 26-11-77
	का. आ. 3574	तारीख 26-1-77
	का. आ. 3671	तारीख 3-12-77
1978	का. आ. 2464	तारीख 2-9-78
	का. आ. 2465	तारीख 2-9-78
1979	का. आ. 920	तारीख 17-2-79
1980	का. आ. 1769	तारीख 5-7-80
1981	का. आ. 264	तारीख 24-1-81
	का. आ. 2126	तारीख 8-8-81
	का. आ. 2203	तारीख 22-8-81
	का. आ. 2512	तारीख 3-10-81
1982	का. आ. 163	तारीख 23-1-82
1985	अधिसूचना सं. 11012/15/84-स्था. (क)	तारीख 6-7-85
	अधिसूचना सं. 11012/5/85-स्था. (क)	तारीख 29-7-85
	का. आ. 812	तारीख 31-8-85
	का. आ. 195	तारीख 25-1-86
	अधिसूचना सं. 11012/8/85-स्था. (क)	तारीख 11-12-85
	अधिसूचना सं. 11012/24/85-स्था. (क)	तारीख 26-11-86
1987	का. आ. 830	तारीख 28-3-87
	का. आ. 831	तारीख 28-3-87
	का. आ. 1591	तारीख 27-6-87
	का. आ. 1825	तारीख 18-7-87

New Delhi, the 29th September, 1988

S.O. 3060.—In exercise of the powers conferred by the proviso to article 309 of the Constitution, the President hereby makes the following rules further to amend the Central Civil Services (Classification, Control and Appeal) Rules, 1965, namely:—

1. (1) These rules may be called the Central Civil Services (Classification, Control and Appeal) Amendment Rules, 1988.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In part II of the Schedule to the Central Civil Services (Classification, Control and Appeal) Rules, 1965, against serial numbers 7 and 8 relating to Postal Superintendents' Service, Group 'B' and Post-masters' Service,

Group 'B' respectively, in columns 3 and 4 for the words "Director General, Posts and Telegraphs", the words "Director General, Posts" shall be substituted.

[No. 11012/11/88 Estt(A)]

Note: principal rules/orders published vide Notification No. 7/2/63-Estt (A) dated 20-11-1965

Subsequently amended by Notifications published in the Gazette of India Part II Section 3 Sub-Section (ii) under the following number and date :-

1966	S.O. 1149	dated 13-4-1966
	S.O. 1596	dated 4-6-1966
	S.O. 2007	dated 9-7-1966
	S.O. 2648	dated 2-9-1966
	S.O. 2854	dated 1-10-1966
1967	S.O. 1282	dated 15-4-1967
	S.O. 1457	dated 29-4-1967
	S.O. 3253	dated 16-9-1967
	S.O. 3530	dated 7-10-1967
	S.O. 4151	dated 25-11-1967
1968	S.O. 821	dated 9-3-1968
	S.O. 1441	dated 27-4-1968
	S.O. 1870	dated 1-6-1968
	S.O. 3423	dated 28-9-1968
1969	S.O. 5008	dated 27-12-1969
1970	S.O. 397	dated 7-2-1970
1971	S.O. 35217	dated 25-9-1971
	S.O. 249	dated 1-1-1972
1972	S.O. 990	dated 22-4-1972
	S.O. 1600	dated 1-7-1972
	S.O. 2789	dated 14-10-1972
1973	S.O. 929	dated 31-3-1973
1974	S.O. 1648	dated 6-7-1974
1976	S.O. 2742	dated 31-3-1976
	S.O. 4664	dated 11-12-1976
1977	S.O. 3062	dated 8-10-1977
	S.O. 3573	dated 26-11-1977
	S.O. 3574	dated 3-12-1977
	S.O. 3671	dated 26-11-1977
1978	S.O. 2464	dated 2-9-1978
	S.O. 2465	dated 2-9-1978
1979	S.O. 920	dated 17-2-1979
1980	S.O. 1769	dated 5-7-1980
1981	S.O. 264	dated 24-1-1981
	SO. 2126	dated 8-8-1981
	S.O. 2203	dated 22-8-1981
	SO. 2512	dated 3-10-1981
1982	S.O. 168	dated 23-1-1982
1985	Notification No. 11012/15/84-Estt. (A)	dated 5-7-1985
	Notification No. 11012/5/85-Estt. (A)	dated 29-7-1985
	S.O. 812	dated 31-8-1985
	S.O. 195	dated 25-1-1986
	Notification No. 11012/8/85-Estt. (A)	dated 11-12-1985
	Notification No. 11012/24/85-Estt. (A)	dated 26-11-1986
1987	S.O. 830	dated 28-3-1987
	S.O. 831	dated 28-3-1987
	S.O. 1591	dated 27-6-1987
	S.O. 1825	dated 18-7-1987

नई दिल्ली, 30 सितम्बर, 1988

का.आ. 3061.—राष्ट्रपति, संविधान के अनुच्छेद 309 के परामर्श द्वारा प्रयत्न शक्तियों का प्रयोग करते हुए, केन्द्रीय सिविल सेवा (वर्गीकरण, नियंत्रण और अपील) नियम, 1965 का और संशोधन करने के लिए निम्नलिखित नियम बनाते हैं, अर्थात्—

1. (1) इन नियमों का संक्षिप्त नाम केन्द्रीय सिविल सेवा (वर्गीकरण, नियंत्रण और अपील) संशोधन नियम, 1988 है।

(2) ये राजपत्र में प्रकाशन की तारीख को प्रवृत्त होंगे।

2. केन्द्रीय सिविल सेवा (वर्गीकरण, नियंत्रण और अपील) नियम, 1965 की अनुसूची के भाग 3 में, क्रम संख्यांक 1 और 1क के सामने स्तम्भ 4, 5 और 6 में, मद (ब) के सामने की प्रविष्टियों के स्थान पर निम्नलिखित प्रविष्टियाँ रखी जाएंगी, अर्थात्—

4	5	6
"शाक विभाग और दूर संचार विभाग	सक्षिप	सभी
	(दूर संचार बोर्ड)	सदस्य (कार्मिक) दूर संचार विभाग।"

[संख्या: 11012/10/88-स्था. (क)]

ए. जयरामन, निदेशक

पण: मूल नियम/आदेश अधिसूचना सं. 7/2/63-स्था. (क), तारीख 20-11-65 द्वारा प्रकाशित किए गए थे।

तदनुषात् उनका निम्नलिखित संख्यांक और तारीख के अधीन भारत के राजपत्र, भाग 2, खंड 3, उपखंड (ii) में प्रकाशित अधिसूचनाओं द्वारा संशोधन किया गया:

1966	का.आ. 1149	तारीख 13-4-66
	का.आ. 1596	तारीख 4-6-66
	का.आ. 2007	तारीख 9-7-66
	का.आ. 2648	तारीख 2-9-66
	का.आ. 2854	तारीख 1-10-66
1967	का.आ. 1282	तारीख 15-4-67
	का.आ. 1457	तारीख 29-4-67
	का.आ. 3253	तारीख 16-9-67
	का.आ. 3530	तारीख 7-10-67
	का.आ. 4151	तारीख 25-11-67
1968	का.आ. 821	तारीख 9-3-68
	का.आ. 1441	तारीख 27-4-68
	का.आ. 1870	तारीख 1-6-68
	का.आ. 3423	तारीख 28-9-68
1969	का.आ. 50008	तारीख 27-12-69
1970	का.आ. 397	तारीख 7-2-70
1971	का.आ. 35217	तारीख 25-9-71
	का.आ. 249	तारीख 1-1-72
1972	का.आ. 990	तारीख 22-4-72
	का.आ. 1600	तारीख 1-7-72
	का.आ. 2789	तारीख 14-10-72
1973	का.आ. 929	तारीख 31-3-73
1974	का.आ. 1648	तारीख 6-7-74
1976	का.आ. 2742	तारीख 31-7-76
	का.आ. 4664	तारीख 11-12-76

1977	का.आ. 3062	तारीख 8-10-77
	का.आ. 3573	तारीख 26-11-77
	का.आ. 3574	तारीख 26-11-77
	का.आ. 3671	तारीख 3-12-77
1978	का.आ. 2464	तारीख 2-9-78
	का.आ. 2465	तारीख 2-9-78
1979	का.आ. 920	तारीख 17-2-79
1980	का.आ. 1769	तारीख 5-7-80
1981	का.आ. 264	तारीख 24-1-81
	का.आ. 2126	तारीख 8-8-81
	का.आ. 2203	तारीख 22-8-81
	का.आ. 2512	तारीख 3-10-81
1982	का.आ. 168	तारीख 23-1-82
1986	अधिसूचना सं. 11012/15/84-स्था. (क), तारीख 5-7-85	
	अधिसूचना सं. 11012/5/85-स्था. (क), तारीख 29-7-85	
	का.आ. 812	तारीख 31-8-85
	का.आ. 195	तारीख 25-1-86
	अधिसूचना सं. 11012/8/85-स्था. (क), तारीख 11-12-85	
	अधिसूचना सं. 11012/24/85-स्था. (क), तारीख 26-11-86	
1987	का.आ. 830	तारीख 28-3-87
	का.आ. 331	तारीख 28-3-87
	का.आ. 1591	तारीख 27-6-87
	का.आ. 1825	तारीख 18-7-87

New Delhi, the 30th September 1988.

S.O. 3061:—In exercise of the powers conferred by the proviso to article 309 of the Constitution, the President hereby makes the following rules further to amend the Central Civil Services (Classification, Control and Appeal) Rules, 1965, namely :—

1. (1) These rules may be called the Central Civil Services (Classification, Control and Appeal) Amendment Rules, 1988.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Schedule to the Central Civil Services (Classification, Control and Appeal) Rules, 1965, in Part III against serial number 1 and 1-A, in columns 4, 5 and 6, for the entries against item (d), the following entries shall be substituted, namely :—

(4)	(5)	(6)
Department of Posts and Department of Telecommunications	Secretary (Telecommunications Board)	All Member (Personnel) Department of Telecommunications.

[No. 11012/10/88—Estt. (A)]

A. JAYARAMAN, Director

Note : Principal rules/Order published vide Notification No. 7/2/63—Estt. (A) dated 20-11-65.

Subsequently amended by notifications published in the Gazette of India Part II Section 3 sub-section (ii) under the following number and date :—

1966	S.O. 1149	dated 13-4-1966
	S.O. 1596	dated 4-6-66
	S.O. 2007	dated 9-7-66
	S.O. 2648	dated 2-9-66
	S.O. 2854	dated 1-10-66

1957	S.O. 1282	dated 15-4-67
	S.O. 1457	dated 29-4-67
	S.O. 3253	dated 16-9-67
	S.O. 3530	dated 7-10-67
	S.O. 4151	dated 25-11-67
1968	S.O. 821	dated 9-3-68
	S.O. 1441	dated 27-4-68
	S.O. 1870	dated 1-6-68
	S.O. 3423	dated 28-9-68
1969	S.O. 5008	dated 27-12-69
1970	S.O. 397	dated 7-2-70
1971	S.O. 35217	dated 25-9-71
	S.O. 249	dated 1-1-72
1972	S.O. 990	dated 22-4-72
	S.O. 1600	dated 1-7-72
	S.O. 2789	dated 14-10-72
1973	S.O. 929	dated 31-3-73
1974	S.O. 1648	dated 6-7-74
1976	S.O. 2742	dated 31-7-76
	S.O. 4664	dated 11-12-76
1987	S.O. 3062	dated 8-10-77
	S.O. 3573	dated 26-11-77
	S.O. 3574	dated 26-11-77
	S.O. 3671	dated 3-12-77
1978	S.O. 2464	dated 2-9-78
	S.O. 2465	dated 2-9-78
1979	S.O. 930	dated 17-2-79
1980	S.O. 1769	dated 5-7-80
1981	S.O. 204	dated 24-1-81
	S.O. 2126	dated 8-8-81
	S.O. 2203	dated 22-8-81
	S.O. 2512	dated 3-10-81
1982	S.O. 168	dated 23-1-82
1985	Notification No. 11012/15/84-Estt.(A) dt. 5-7-85	
	Notification No. 11012/85/5-Estt.(A) dt. 29-7-85	
	S.O. 812	dated 31-8-85
	S.O. 195	dated 25-1-86
	Notification No. 11012/8/85-Estt.(A), dt. 11-12-85	
	Notification No. 11012/24/85-Estt.(A) Dt. 26-11-86.	
1987	S.O. 830	dated 28-3-87
	S.O. 831	dated 28-3-87
	S.O. 1591	dated 27-6-87
	S.O. 1825	dated 18-7-87

वित्त मंत्रालय

(आर्थिक कार्य विभाग)

(बैंकिंग प्रभाग)

नई दिल्ली, 30 सितम्बर, 1988

का. भा. 3082.—राष्ट्रीयकृत बैंक (प्रबंध और प्रकीर्ण उपबंध) स्कीम, 1970 की धारा 9 की उपधारा (2) के साथ पठित धारा 3 की उपधारा (ख) के अनुसरण में, केन्द्रीय सरकार, एतद्वारा श्री के. आर्. तलरेजा, विशेष सहायक, बैंक आफ बड़ौदा, बम्बई को दिनांक 1-10-1988 से 30-9-91 तक प्रथम जय तक वे बैंक आफ बड़ौदा के एक कर्मचारी के रूप में अपनी सेवा छोड़ नहीं देते हैं, इनमें से जो भी पहले हो, बैंक आफ बड़ौदा के निदेशक बोर्ड में निदेशक के रूप में नियुक्त करती है।

[संख्या एक. 15/3/84-आई आर]

MINISTRY OF FINANCE (Department of Economic Affairs) (Banking Division)

New Delhi, the 30th September, 1988

S.O. 3062.—In pursuance of sub-clause (b) of Clause 3 read with sub-clause (2) of clause 9 of the Nationalised Banks (Management and Miscellaneous Provisions) Scheme, 1970, the Central Government hereby appoints Shri K. I. Talreja, Special Assistant, Bank of Baroda, Bombay as a Director on the Board of Directors of Bank of Baroda with effect from 1-10-1988 to 30-9-1991 or until he ceases to be an employee of Bank of Baroda whichever is earlier.

[No. F. 15/3/84-IR]

का. भा. 3063.—भारतीय स्टेट बैंक (मार्गों बैंक) अधिनियम 1959 (1959 का 38) की धारा 26 की उपधारा (2) के साथ पठित धारा 25 की उपधारा (1) के खण्ड (ग, क) के अनुसरण में केन्द्रीय सरकार, एतद्वारा स्टेट बैंक आफ त्रावणकोर के कर्मकार कर्मचारियों में से श्री एस. ए. पिल्लै, विशेष सहायक, स्टेट बैंक आफ त्रावणकोर, नागरकोइल शाखा (तमिलनाडु) को श्री पाउल काकैसरी के स्वागत 1 अक्टूबर, 1988 से प्रारम्भ होकर 30 सितम्बर, 1991 को समाप्त होने वाली तीन वर्ष की अवधि के लिए प्रथम जय तक वे बैंक के एक कर्मचारी के रूप में अपनी सेवा छोड़ नहीं देते हैं, इनमें से जो भी पहले हो, स्टेट बैंक आफ त्रावणकोर के निदेशक बोर्ड में निदेशक के रूप में नियुक्त करती है।

[संख्या एक. 15/3/84-आई आर]

सहायक सचिव, अवर सचिव

S.O. 3063.—In pursuance of clause (ca) of sub-section (1) of section 25 read with sub-section (2A) of section 26 of the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959), the Central Government hereby appoints Shri S. A. Pillai, Special Assistant, State Bank of Travancore, Nagarcoil Branch (Tamil Nadu) as a director on the Board of the State Bank of Travancore from among the employees of the State Bank of Travancore who are working for a period of three years commencing on 1st October, 1988 and ending with 30th September 1991 or until he ceases to be an employee of the bank whichever is earlier vice Shri Paul Kakkessery.

[No. F. 15/3/88-IR]

S. P. BHATIA, Under Secy.

वाणिज्य मंत्रालय

नई दिल्ली, 15 अक्टूबर, 1988

आदेश

का. भा. 3064.—निर्यात (स्वातिदी नियंत्रण और निरीक्षण) अधिनियम, 1963 (1963 का 22) की धारा 6 द्वारा प्रवृत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार की यह राय है कि भारत के निर्यात व्यापार के विकास के लिए ऐसा करना आवश्यक और समीचीन है कि निर्यात नियंत्रण, निर्यात से पूर्व स्वातिदी नियंत्रण और निरीक्षण के अधीन होना ;

और, केन्द्रीय सरकार ने उक्त प्रयोजन के लिए नीचे दिए गए प्रस्ताव बनाए हैं तथा उन्हें, निर्यात (स्वातिदी नियंत्रण और निरीक्षण) नियम, 1964 के नियम 11 के उपनियम (2) की अपेक्षानुसार भारतीय निर्यात निरीक्षण परिषद को भेज दिया है ;

अतः अतः, केन्द्रीय सरकार, उक्त उपनियम के अनुसरण में तथा भारत सरकार के वाणिज्य मंत्रालय की अधिसूचना सं. का. भा. 3761 तारीख

15 सितम्बर, 1969 के अधिनियम में, उक्त प्रस्तावों को ऐसे सभी व्यक्तियों की जानकारी के लिए प्रकाशित करती है जिनके उनसे प्रभावित होने की संभावना है।

2. सूचना दी जाती है कि उक्त प्रस्तावों के बारे में कोई आक्षेप या सुझाव भेजने का हक्क कोई व्यक्ति उन्हें राजपत्र में इस आदेश के प्रकाशन की तारीख से पैंतालिस दिन के भीतर भारतीय नियमित निरीक्षण परिवार, 11वीं मंजिल, प्रगति टावर, 26, राजेन्द्र प्लेन, नयी दिल्ली-110008 को भेज सकता है।

प्रस्ताव

(1) यह अधिसूचित करना कि लिनोलियम नियमित से पूर्व क्वालिटी नियंत्रण और निरीक्षण के अधीन होगा;

(2) निम्नलिखित को:—

(i) राष्ट्रीय या अंतर्राष्ट्रीय मानक, और

(ii) उपबंध-I में यथानिर्दिष्ट के न्यूनतम विविधों के अधीन रहते हुए, क्रेता और विप्रेता के मध्य करार पाए गए संबंधात्मक विनिर्देशों को ऐसे लिनोलियम के लिए मानक विनिर्देशों के रूप में मान्यता देना;

(3) क्वालिटी नियंत्रण और निरीक्षण को इस आदेश के उपबंध-II में दिए गए लिनोलियम के निर्यात (क्वालिटी नियंत्रण और निरीक्षण) नियम, 1988 के प्रावधानों के अनुसार, क्वालिटी नियंत्रण और निरीक्षण के प्रकार के रूप में विनिर्दिष्ट करना जो ऐसे लिनोलियम पर निर्यात से पूर्व लागू होगा;

(4) अंतर्राष्ट्रीय व्यापार की दशा में, ऐसे लिनोलियम के निर्यात को तब तक प्रतिषिद्ध करना जब तक कि उसे प्रत्येक परेक्षण के साथ निर्यात (क्वालिटी नियंत्रण और निरीक्षण) (अधिनियम, 1963 (1963 का 22) की धारा 7 के अधीन स्थापित या मान्यता प्राप्त अधिकरणों में से किसी एक द्वारा जारी किया गया निरीक्षण प्रमाणपत्र न लगा हो।

3. इस आदेश की कोई भी बात भावी क्रेताओं को लिनोलियम के उन वास्तविक नमूनों पर भूमि, समुद्री या वायु मार्ग द्वारा निर्यात को तब तक लागू नहीं होगी जब तक कि ऐसे नमूनों का पोत-पर्यन्त निःशुल्क 509 ६० स अधिक हो।

4. इस आदेश में "लिनोलियम" से, किसी हैसियत परस्तरण पर सम्पन्नित मापेक्षता मोटी घिसी हुई सतह द्वारा विनिर्दिष्टताओं को प्राप्त करते हुए एक कठोर सतही पर्ण है घिसी हुई सतह में शुष्क तेलों, प्राकृतिक या पोलिमरकृत शुष्क तेलों और रेजिनों के काईडर या भीमेड तथा कार्क या लकड़ी के बुरादे के खनिज भरक या भरकों और वर्णकों का सम्मिश्रण भी अंतर्निहित है, अभिप्रेत है।

उपबन्ध-I

लिनोलियम के लिए विनिर्देश

1. सामान्य अपेक्षाएं

1.1 लिनोलियम, ऐसे डिजाइन या पैटर्न के अनुसार विनिर्मित किए जाएंगे जो क्रेता और निर्यातकर्ता के बीच करार पाए जाएंगे।

2. सामग्री:

2.1 लिनोलियम की सतह, निम्नलिखित सामग्रियों के उपयुक्त अनुपात में, उपयोग द्वारा बनाई जाएगी।

(क) आवश्यक पृष्ठों के साथ अपेक्षाकृत या पालिमरीकृत प्रस्ताव का तेल या अन्य उपयुक्त शुष्क तेल।

(ख) वेरोपा (रोजिन) या रेजिन या उनके सम्मिश्रण;

(ग) कार्क बुरादा या लकड़ी का बुरादा या मोर्त;

(घ) खनिज भरक, और

(ङ) रंजित सामग्री या वर्णक।

2.2 अस्तरण के लिए प्रयुक्त हैसियत की न्यूनतम अपेक्षाएं भा.मा. 2818 (भाग-II)-1971 के प्रकार-II के अनुसूची होंगी।

3. विभाग तथा महत्ताएं:

3.1 बर्दर की चौड़ाई:—बर्दर का औसत न्यूनतम और निर्यातकर्ता के बीच करार पाए गए मध्य के ± 3 मि.मी. में अधिक भिन्न नहीं होगा।

3.2 मोटाई:—लिनोलियम बर्दर की मोटाई का औसत मूल्य करार पाए गए मूल्य के ± 1.5 मि.मी. में अधिक में भिन्न नहीं होगी जब तक कि क्रेता और निर्यातकर्ता के बीच करार न पाई जाए।

4. फिनिश:

4.1 लिनोलियम की सतह विहरी, एक मार होगी तथा दंतुरता, निकुडनों, दरारों तथा बड़े छुग कर्णों में मुक्त होगी।

4.2 हैसियत परस्तरण तब तक संवेचित नहीं होगा जब तक कि अन्यथा विनिर्दिष्ट न हों। केवल समतल, बड़ाऊ, मार्बलिन, जैंग प्रकारों के लिए।

5. दंतुरता:

5.1 जब मानक प्रणाली द्वारा परीक्षित हो तब अशुद्ध दंतुरता संपूर्ण मोटाई पर मूल के 10 प्रतिशत में अधिक नहीं होगी।

6. लचीलापन:—

6.1 जब मानक प्रणाली के अनुसार परीक्षित हो तब नमूना टुकड़े में से लम्बे और चौड़े 50×200 मि.म. साप वाले कटे हुए परीक्षित टुकड़े टूटन दरारों या अन्य मुकसानियों की अपेक्षाओं को पूरा करेंगे।

7. जल अवशोषण:

7.1 जब मानक प्रणाली द्वारा परीक्षित हो, तब अवशोषण निम्नलिखित से अधिक नहीं होगा:—

मोटाई के लिए

जल अवशोषण

मि.मी.	प्रतिशत अवशोषण
4.5	5.5
3.2	6.5
2.0	10.0
1.6	11.5

8. त्वरित अवस्था:

8.1 जब मानक प्रणाली द्वारा परीक्षित हो तब त्वरित परस्तरण विहितता को को विकृत दिखाई नहीं देगा और त्वरित परस्तरण के परस्तरण अवशिष्ट दंतुरता, लचीलापन, रंग, कठोरता और अवशोषण की अपेक्षाओं का भी समाधान करेंगे।

टिप्पणी:—ऊपर की अपेक्षाओं के लिए परीक्षण को मानक प्रणाली भूमिगत भारतीय मानकों अर्थात् भा.मा. 653-1980 या क्रेता और निर्यातकर्ता के बीच करार पाए गए नियमों पर देन के मापकों के अनुसार होगी।

उपभाग II

3. निरीक्षण का आधार :-

नियमित (क्वालिटी नियंत्रण और निरीक्षण) अधिनियम, 1963 (1963 का 22) की धारा 17 के अन्तर्गत जारी किये गये प्रस्तावित नियमों का प्रारम्भ।

नियमित के लिए स्थापित लिनोलियम के उत्पादन यह द्वारा से कर दिया जाएगा कि वह, अधिनियम के धारा 6 के अन्तर्गत के प्रमाण द्वारा मान्यता प्राप्त मानक विनिर्देशों के अनुरूप है।

या

1. संक्षिप्त नाम और प्रारम्भ :-

- (i) इन नियमों का संक्षिप्त नाम लिनोलियम का नियमित (क्वालिटी नियंत्रण और निरीक्षण) नियम, 1987 है।
- (ii) ये राजपत्र में प्रकाशन की तारीख को प्रवृत्त होंगे।

2. परिभाषाएँ :-

इन नियमों में, जब तक कि संदर्भ से अन्यथा अपेक्षित न हो :-

- (क) "अधिनियम" से नियमित (क्वालिटी नियंत्रण और निरीक्षण) अधिनियम, 1963 (1963 का 22) अभिप्रेत है;
- (ख) "परिषद" से अधिनियम की धारा 3 के अन्तर्गत स्थापित नियमित निरीक्षण परिषद अभिप्रेत है;
- (ग) "अभिकरण" से संसाधन के दौरान क्वालिटी नियंत्रण के अन्तर्गत प्रमाणीकरण करने और परेक्षणानुसार निरीक्षण के लिए स्थापित/मान्यताप्राप्त, अधिनियम की धारा 7 के अन्तर्गत स्थापित नियमित निरीक्षण अभिकरण में से कोई एक अभिप्रेत है;
- (घ) "लिनोलियम" से किसी हैमिचन अकार्बन पर समर्थित सापेक्षतः मोटी चिसी हुई सतह द्वारा विनिर्दिष्टताओं को प्राप्त करने हुए एक कठोर सतही फर्श है, चिसी हुई सतह में तेलों, प्लास्टिक या पोलिमेरिक शक्त तेलों और रेजिनों के बाइंडर या सीमेंट तथा कार्क या लकड़ी के बुरादे के खनिज भरक या भरकों और वर्णकों का सम्मिश्रण भी अंतर्निहित है।
- (ङ) "उत्पादन के दौरान क्वालिटी नियंत्रण" (जिसे इसमें इसके पश्चात् आईपी क्यूसी भी कहा गया है) से क्वालिटी नियंत्रण की वह प्रणाली जिसके द्वारा विनिर्माण एक या अधिक सुनिश्चित करता है कि लिनोलियम का विनिर्माण परिषद द्वारा यथा-अधिकृत रीति से करी की गयी सामग्री तथा संयोजकों विनिर्माण निरीक्षण परीक्षण तथा पैकिंग के विभिन्न प्रक्रमों पर नियंत्रणों का प्रयोग, करके मानक विनिर्देशों के अनुरूप किया गया है; अभिप्रेत है।
- (च) "परेक्षणानुसार निरीक्षण" से वह प्रक्रिया अभिप्रेत है, जिसमें यह अवधारित होता है कि क्या नियमित के लिए आवश्यक लिनोलियम का परेक्षण, परिषद द्वारा यथा अधिकृत रीति से अभिकरण द्वारा निरीक्षण और परीक्षण करके मानक विनिर्देशों का अनुपालन करता है।
- (छ) "अनुमोदित यूनिट" से अभिकरण द्वारा अनुमोदित वह विनिर्माण यूनिट अभिप्रेत है जो आईपी क्यूसी की सभी अज्ञातों का समाधान करता है;
- (ज) "कालिक दौरा" से अनुमोदित यूनिट में अभिकरण के अधिकारियों द्वारा समय-समय पर यूनिट में उत्पादन के दौरान क्वालिटी नियंत्रण अपेक्षाओं को अनुपालन को सुनिश्चित करने के लिए किए गए दोरे अभिप्रेत है।
- (झ) "स्थल पर जांच" से परिषद द्वारा यथा अधिकृत ढंग से मानक विनिर्देशों की अनुपालन को सुनिश्चित करने के लिए अभिकरण द्वारा नियमित परेक्षण का निरीक्षण अभिप्रेत है।

- (i) यह सुनिश्चित करते हुए कि उत्पाद, निरीक्षण की उत्पादन के दौरान क्वालिटी नियंत्रण प्रणाली के अन्तर्गत आने वाले एककों के संबंध में इस अधिनियम के परिशिष्ट-क में यथा विनिर्दिष्ट के रूप में उत्पादन के दौरान आवश्यक क्वालिटी नियंत्रण का प्रयोग करते हुए विनिर्मित किया गया है;

या

- (ii) निरीक्षण को परेक्षणानुसार, निरीक्षण प्रणाली के अन्तर्गत आने वाले यूनिटों की वास्तविक इन नियमों के परिशिष्ट-ख में विनिर्दिष्ट रीति से किए गए निरीक्षण तथा परीक्षण के आधार पर।

4. निरीक्षण की प्रक्रिया:

- (1) लिनोलियम के परेक्षण का नियमित करने का दायित्व कोई नियमितकर्ता अभिकरण को या नियमित संविदा या आदेश को एक प्रति के साथ सविदात्मक विनिर्देशों का ब्योरा देते हुए अभिकरण को नियम 3 के उपबन्धों के अनुसार निरीक्षण करने में समर्थ बनाने के लिए लिखित रूप में सूचना देगा।
- (2) परिशिष्ट क में यथा अधिकृत के अनुसार उत्पादन के दौरान पर्याप्त क्वालिटी नियंत्रण का प्रयोग करते हुए, विनिर्मित लिनोलियम के नियमित के लिए और इस प्रयोजन के लिए परिषद द्वारा गठित विशेषज्ञों के पैनल द्वारा यह व्यापक निर्णित कर लेने पर कि विनिर्माण यूनिट के पास उत्पादन के दौरान क्वालिटी नियंत्रण की पर्याप्त झिल्लें हैं, नियमितकर्ता उपनियम (2) में उल्लिखित सूचना के साथ यह परेक्षण भी करेगा कि नियमित के लिए आवश्यक लिनोलियम का परेक्षण परिशिष्ट में यथा अधिकृत पर्याप्त क्वालिटी नियंत्रणों का प्रयोग करते हुए विनिर्मित किया गया है और इस प्रयोजन के लिए मान्यता प्राप्त मानक विनिर्देशों के अनुरूप है।
- (3) नियमितकर्ता, अभिकरण को नियमित किए जाने वाले परेक्षण पर लगे पहचान चिह्न देगा।
- (4) उपरोक्त उपनियम (1) के अन्तर्गत प्रत्येक सूचना, विनिर्माताओं के परिसर से परेक्षण के भेजे जाने से कम से कम सात दिन पूर्व देगा, जबकि उपनियम (2) के अन्तर्गत घोषणा के साथ सूचना देने के मामले में, विनिर्माता के परिसरों से परेक्षण के भेजे जाने से कम से कम तीन दिन पूर्व देगा।
- (5) उपनियम (1) के अन्तर्गत सूचना तथा उपनियम (2) के अन्तर्गत घोषणा यदि कोई हो, प्राप्त होने पर, अभिकरण :-
 - (क) (i) अपना यह समाधान कर लेने पर कि विनिर्माता की प्रक्रिया के दौरान विनिर्माता ने परिशिष्टक में यथा अधिकृत पर्याप्त क्वालिटी नियंत्रणों का प्रयोग किया है और इस प्रयोजन के लिए उत्पाद का विनिर्माण मान्यता प्राप्त विनिर्देशों के अनुरूप करने के लिए परिषद या अभिकरण द्वारा जारी किए गए अनुदेशों यदि कोई हों, का पालन किया है, तीन दिन के भीतर यह घोषणा करते हुए प्रमाणपत्र जारी करेगा कि लिनोलियम का परेक्षण नियमित योग्य है।

(ii) उस दशा में जहाँ विनिर्माता निर्मातकर्ता नहीं है, परेषण का आवश्यक सत्यापन किया जाएगा और ऐसा सत्यापन और निरीक्षण यदि आवश्यक हो, अधिकरण द्वारा यह सुनिश्चित करते हुए किया जाएगा कि उपर्युक्त जनों का पालन किया गया है।

(iii) अधिकरण नियमित के लिए आयोजित कुछ परेषणों का स्थल पर ही निरीक्षण करेगा और यूनिट द्वारा अवगर्हणीय क्वालिटी नियंत्रण प्रणाली की स्थितियों की परीक्षा को बनाए रखने का सत्यापन करने के लिए नियमित सत्यापनों पर निरीक्षण यूनिटों में जाएगा।

(iv) यदि यह पाया जाता है कि विनिर्माण यूनिट विनिर्माण के किसी भी प्रणाली पर अपेक्षित क्वालिटी नियंत्रण उपायों को नहीं अपनाता है और परिषद या अधिकरण की सिफारिशों का अनुपालन नहीं करता है तो यह घोषित कर दिया जाएगा कि यूनिट के पास उत्पादन के दौरान पर्याप्त क्वालिटी नियंत्रण स्थितियाँ नहीं हैं ऐसे मामलों में यदि यूनिट ऐसी अपेक्षा करता है तो उत्पादन के दौरान पर्याप्त क्वालिटी नियंत्रण को बनाए रखने के सत्यापन के लिए नए सिरे से आवेदन कर सकेगा।

(घ) जहाँ नियम 4 के उपनिर्देश (2) के अधीन निर्मात-कर्ता ने यह घोषित किया/नहीं किया है कि परिशिष्ट क में अधिकृत पर्याप्त क्वालिटी नियंत्रणों का प्रयोग किया गया है अपना यह समाधान हो जाने पर कि लिसेंसियम का परेषण इस प्रयोजन के लिए मान्य मानक विनिर्देशों के अनुरूप है, परिशिष्ट ख में अधिकृत के अनुसार निरीक्षण तथा परीक्षण करने के आधार पर, ऐसा निरीक्षण करने के सात दिन के भीतर यह घोषणा करते हुए, प्रमाण-पत्र जारी करेगा कि परेषण नियमित योग्य है।

परन्तु जहाँ अधिकरण का ऐसा समाधान नहीं होता है तो वह उस सात/तीन दिन की अवधि के भीतर निर्मात-कर्ता को ऐसा प्रमाण-पत्र जारी करने से इंकार करेगा तथा ऐसे इंकार की सूचना उसके कार्यों सहित निर्मातकर्ता को देगा।

(ग) (i) उस दशा में जहाँ उपनिर्देश (5) (क) के अधीन विनिर्माता निर्मातकर्ता नहीं है या उपनिर्देश (5) (ख) के अधीन परेषण निरीक्षित हुआ है, तो अधिकरण निरीक्षण की समाप्ति के तुरन्त पश्चात् परेषण में पैकेजों को इस ढंग से सीलबंद करेगा कि जिससे यह सुनिश्चित हो सके कि सील किए हुए पैकेजों के साथ छेड़-छाड़ न की जा सके।

(ii) परेषण के रद्दकरण की दशा में यदि, अधिकरण ऐसी अपेक्षा करता है तो परेषण को अधिकरण द्वारा सीलबंद नहीं किया जाएगा, परन्तु ऐसे दशा में निर्मातकर्ता ऐसे रद्दकरण के विरुद्ध कोई अपील करने का हकदार नहीं होगा।

5. निरीक्षण का स्थान:

इन नियमों के अधीन प्रत्येक निरीक्षण निम्नलिखित स्थानों पर किया जाएगा

(क) ऐसे उत्पादों के विनिर्माताओं के परिसरों पर या

(ख) उस परिसर पर, जहाँ निर्मातकर्ता ने निरीक्षण के लिए मात प्रस्तुत किया है परन्तु जहाँ इस प्रयोजन के लिए पर्याप्त सुविधाएँ विद्यमान हों।

6. निरीक्षण फीस:

निर्मातकर्ता द्वारा अधिकरण को निम्नानुसार निरीक्षण फीस दी जाएगी:—

(क) उत्पादन के द्वारा क्वालिटी नियंत्रण स्थिति के अधीन निर्मात के लिए पोत पर्यन्त निशुल्क मूल्य के 0.2 प्रतिशत की दर पर जो प्रति परेषण कम से कम 20 रु. होगी।

(ख) परेषणानुसार निरीक्षण के अधीन निर्मात के लिए पोत पर्यन्त निशुल्क मूल्य के 0.4 प्रतिशत की दर पर जो प्रति परेषण कम से कम 20 रु. होगी।

7. अपील:—

(1) नियम 4 के उपनिर्देश (5) के अधीन अधिकरण द्वारा प्रमाण-पत्र जारी न करने से व्यक्ति कोई व्यक्ति ऐसे इंकार की सूचना प्राप्त होने के दस दिन के भीतर केन्द्रीय सरकार द्वारा गठित ऐसे विशेषज्ञों के पैनल को अपील कर सकेगा जिसमें तीन से अधिक और सात से अधिक व्यक्ति होंगे।

(2) विशेषज्ञों का पैनल कुल सदस्यता के कम से कम दो तिहाई और सरकारी सदस्यों से मिलकर बनेगा।

(3) विशेषज्ञों के पैनल की गणपूर्ति तीन से होगी।

(4) अपील, प्राप्त होने के पंद्रह दिन के भीतर निपटा दी जाएगी।

परिशिष्ट क

उत्पादन के दौरान क्वालिटी नियंत्रण

निर्मात के लिए आयोजित विनिर्माण का क्वालिटी नियंत्रण इस यूनिट से किया जाएगा कि यह इससे संलग्न सूची में दिए गए नियंत्रण के तहत सहित नीचे अधिकृत उत्पाद के विनिर्माण, परिरक्षण तथा पैकिंग के विभिन्न प्रक्रमों पर निम्नलिखित नियंत्रणों का प्रयोग करने हुए, अधिनियम की धारा 6 के अधीन केन्द्रीय सरकार द्वारा मान्यता प्राप्त मानक विनिर्देशों के अनुरूप हों।

(1) घाते वाली सामग्री पर नियंत्रण:

(क) विनिर्माण/प्रसंस्करण यूनिट में विभिन्न विनिर्माण के विनिर्माण प्रसंस्करण के लिए आयोजित पानी का सभी तार्य दस्तावेजों विनिर्देशों के प्रतिकूल होगा और उनको स्वीकृति, उपयोग नमूना देने की योजना तथा मानकों के अनुसार निरीक्षण तथा परीक्षण के पश्चात् दी जाएगी।

(ख) स्वीकृत परेषणों के साथ कद विनिर्देशों की प्रयोक्तों को समा-विष्ट करते हुए, प्रदायकर्ता का परीक्षण या निरीक्षण प्रमाण-पत्र लगा होगा जिस मामले में, किसी विशिष्ट प्रदायकर्ता के लिए क्रेता द्वारा कम से कम 10 परेषणों में से एक की लिसेंसियम के विनिर्माता द्वारा यदा कदा जांच की जाएगी स्वीकृत परेषणों के साथ प्रदायकर्ता का परीक्षण प्रमाण-पत्र लगा होगा या कद विनिर्देशों की प्रयोक्तों को समाविष्ट करते हुए निरीक्षण प्रमाण-पत्र लगा होगा, जिस मामले में, किसी विशिष्ट प्रदायकर्ता के लिए विनिर्माण का विनिर्माता द्वारा उपर्युक्त परीक्षण या निरीक्षण प्रमाण-पत्रों की शुद्धता को सत्या-पित करने के लिए 10 परेषणों में से कम से कम एक बार यदा कदा जांच की जाएगी या अन्य की गई सामग्री का कद करने से पहले, पैकेट की प्रयोगशाला या पैकेट या प्रयोग-

भाषा सदन के बाह्य नियमित रूप से निरीक्षण तथा परीक्षण किया जाएगा। निरीक्षण और परीक्षण के ऐसे जांचों के अभिलेख रखे जाएंगे।

(ग) निरीक्षण/परीक्षण के किए जाने के पश्चात् स्वीकृत और अस्वीकृत सामग्री का पृथक्करण तथा अस्वीकृत सामग्री के निपटारा करने हेतु सुव्यवस्थित पद्धतियां अपनाई जाएंगी।

2. प्रसंस्करण/विनिर्माण नियंत्रण :--

(क) विनिर्माण की विभिन्न प्रक्रियाओं के लिए विनिर्माता द्वारा विस्तृत प्रक्रिया विनिर्देश अधिकथित किए जाएंगे।

(ख) प्रक्रिया विनिर्देशों में अधिकथित प्रक्रियाओं पर नियंत्रण रखने के लिए पर्याप्त उपकरण, उपस्कर और सुविधाएं होंगी।

(ग) विनिर्माता द्वारा, विनिर्माण की प्रक्रिया के दौरान प्रयुक्त नियंत्रणों के सत्यापन की संभावना को सुनिश्चित करने के लिए पर्याप्त अभिलेख रखे जाएंगे।

3. उत्पाद नियंत्रण :

(क) अधिनियम की धारा 6 के अधीन मान्यताप्राप्त विनिर्देशों के अनुसार उत्पाद का परीक्षण करने के लिए विनिर्माता के पास या तो स्वयं की परीक्षण सुविधाएं होंगी या उसकी पहुंच वहां तक होगी जहां कहीं भी ऐसी परीक्षण सुविधाएं विद्यमान हैं।

(ख) परीक्षण के लिए नमूना लेना (जहां कहीं अपेक्षित हो) अधिलिखित शर्तों पर आधारित होगा।

(ग) विनिर्माता, किए गए परीक्षणों की बाबत पर्याप्त अभिलेख नियमित व व्यवस्थित रूप में रखेगा।

4. परिरक्षण नियंत्रण :

(क) विनिर्माता, उत्पाद को प्रतिकूल मौसम की शर्तों के प्रभाव से बचाने के लिए विस्तृत विनिर्देश अधिकथित करेगा।

(ख) उत्पाद को, पोत पतन के लिए, भंडार तथा परिवहन दोनों के दौरान पर्याप्त रूप से परिरक्षित किया जाएगा।

5. पैकिंग नियंत्रण :--

(क) निर्यात के लिए आशयित लिटोलियम को निर्यात संविदा में अधिकथित फिल्म या कपड़े की सामग्री में पैक किया जाएगा। उसके अभाव में, विनिर्माता द्वारा निर्यात निरीक्षण परिषद द्वारा समयक रूप से अनुमोदित अच्छी व्यापारिक कुशलता के अनुसार पैकिंग के लिए विस्तृत पैकिंग विनिर्देश अधिकथित किए जाएंगे।

(ख) जब तक कि केना द्वारा अथवा नियत न हो, सभी पैकेजों पर विनिर्माता का नाम, मात्रा, पोत-पतन और पोत परिवहन चिह्न उपयुक्त रूप से अंकित किए जाएंगे।

अनुसूची

लिटोलियम के लिए नियंत्रण के स्तर

क्र. सं.	विशिष्टताएं अपेक्षाएं	परीक्षण किए जाने वाले नमूनों की सं.	मात्रा	टिप्पणी
1	2	3	4	5
1.	डिजाइन और नमूना	इस प्रयोजन के लिए मान्यता प्राप्त मानक विनिर्देश	प्रत्येक रोल/कालीन	100% " "

1	2	3	4	5	6
2.	फिनिश	यथोक्त	यथोक्त	100%	" "
3.	हैसियन	यथोक्त	एक नमूना	प्रति बैच	" "
	अस्तरण की अपेक्षाएं				
4.	विमाण				
क.	चौड़ाई	यथोक्त	प्रत्येक रोल/कालीन	100%	" "
ख.	मोटाई	यथोक्त	यथोक्त	100%	" "
ग.	लम्बाई	यथोक्त	यथोक्त	100%	" "
5.	रंग तथा इसके नमूने की एक रूपता	यथोक्त	यथोक्त	100%	जब कभी लागू हो

प्लेन तथा इन-लेट प्रकार के लिए किए जाने वाले परीक्षण

6.	दंतुरता परीक्षण	इस प्रयोजन के लिए मान्यता प्राप्त मानक विनिर्देश	एक	प्रति बैच	" "
7.	जल अवशोषण परीक्षण	यथोक्त	एक	प्रति बैच	" "
8.	नमीलापन	यथोक्त	एक	प्रति बैच	" "

परिमिष्ट - ख

परेवणानुसार परीक्षण

1. अधिनियम की धारा 6 के अधीन मान्यताप्राप्त विनिर्देशों के उसकी अनुसूचना सुनिश्चित करने के लिए लिटोलियम का परेवण, निर्यात तथा परीक्षण के अधीन रखें हुए किया जाएगा।

2. मानदंड के संबंध में निर्धारित संविदा में प्रयुक्त के प्रभाव में, एक बैच में से विनिर्मित एक ही प्रकार मोटाई के लिटोलियम को तोड़ के तमो रोल एक साट कागहन करने के लिए एक साथ गांठे होंगे।

2.1 इन विनिर्देशों से लॉट की प्रारम्भ प्रक्रिया करने के लिए लॉट में से चुनकर चुने गए रोलों को उक्त लॉट के प्रारम्भ पर निर्धारित होगी तथा नीचे दी गई सारणी के स्तम्भ 1 और 2 के अनुसार होंगे :

सारणी - चट्टारों की प्रकृता के लिए नमूना प्रारम्भ तथा लॉट में रोलों की संख्या

नमूने में चुने जाने वाले रोलों की संख्या	अनुसूचित संख्या
50 तक	3
51 से 150	5
151 से 300	8
301 से 500	13
501 से 1000	20
1001 तथा इससे अधिक	32

2.2 अनुसूचना के लिए मानदंड : 2.1 के अनुसार चयन किए कुंडलियों/चट्टारों की संख्या इस विनिर्देश की सभी प्रयोजनों के लिए परीक्षित की जाएगी एक या अधिक प्रयोजनों के संबंध में फेन हुए कुंडलों/चट्टारों को दृष्टिपूर्ण कुंडली/चट्टार कहा जाएगा। यदि नमूनों में दोष कुंडलियों/चट्टारों की संख्या उपरोक्त सारणी के स्तम्भ 3 में दिए गए संबंधों

अभ्युक्त संख्या से कम या उसके बराबर है तो लॉट को इन विनिर्देशों की अपेक्षाओं के अनुरूप समझा जाएगा। यदि दोषी कुंडलियों/बहुरों का इन विनिर्देशों की अपेक्षाओं के अनुरूप नहीं समझा जाता है।

3. दीर्घ अवधि के लिए परीक्षण/प्रकार परीक्षण :— जहां निर्यात संविदा में शेरफ्लार्फ/निष्पादन परीक्षण/गारंटी मानदंड से संबंधित परीक्षणों में विप्लव हो, और स के लिए अनुबंधित अवधि (मान दिन या उतने ही) के भीतर परीक्षण नहीं किया जा सकता तो 10 परेपणों में से एक की प्राप्ति समुदा पोस्ट फेक्टो के आधार पर परीक्षण की जाएगी और निरीक्षण का प्रमाण-पत्र पूर्व निष्पादन के आधार पर जारी किया जा सकता है, किन्तु अधिकरण का अपना यह समाधान होने पर कि जो परीक्षण पोस्ट फेक्टो के आधार पर किया गया है, निर्यातकर्ता/विनिर्माता द्वारा पूर्वतः ही किया जा चुका है तथा परेपण को निर्यात के लिए अनुमत किया जाएगा परन्तु कि निर्यातकर्ता/विनिर्माता द्वारा किया गया परीक्षण निर्यात संविदा की अपेक्षाओं को पूरा करता हो।

[फाइल सं. 6(5)/88 - ई आई एंड ई पी]

MINISTRY OF COMMERCE)

New Delhi, the 15th October, 1988

ORDER

S.O. 3064.—Whereas in exercise of the powers conferred by Section 6 of the Export (Quality Control and Inspection) Act, 1963 (22 of 1963), the Central Government is of opinion that it is necessary and expedient so to do for the development of the export trade of India, the Linoleum shall be subject to quality control and inspection prior to export;

And whereas the Central Government has formulated the proposals below for the said purpose and has forwarded the same to the Export Inspection Council of India as required by sub-rule (2) of rule 11 of the Export (Quality Control and Inspection) Rules, 1964;

Now, therefore, in pursuance of the said sub-rule and in supersession of the notification of the Government of India in this Ministry of Commerce No. S.O. 3751 dated the 15th September 1969, the Central Government hereby publishes the said proposals for the information of the public likely to be affected thereby.

2. Notice is hereby given that any person, desiring to forward any objections or suggestions with respect to the said proposals may forward the same within forty-five days of the date of publication of this Order in the Official Gazette to the Export Inspection Council of India, 11th floor, Pragati Tower, 26, Rajendra Place, New Delhi-110008;

PROPOSALS

(1) to notify that linoleum shall be subject to quality control and inspection prior to export;

(2) to recognise—

(i) National or Informational Standards; and

(ii) Contractual specifications as agreed to between the buyer and the seller subject to the minimum specifications as referred to in Annexure-I, as the standard specification for such linoleum

(3) to specify the type of quality control and inspection in accordance with the draft Export of Linoleum (Quality Control & Inspection) Rules, 1988 as set out in Annexure-II to this Order, as the type of quality control and inspection which shall be applied to such linoleum prior to export;

(4) to prohibit the export in the case of international trade of such linoleum unless every consignment thereof is accompanied by an inspection certificate for export issued by any one of the Agencies established or recognized under section 7 of the Export (Quality Control and Inspection) Act, 1963 (22 of 1963);

3. Nothing in this Order shall apply to the export by land, sea or air of bonafide trade samples of linoleum to the prospective buyers, provided f.o.b. value of such samples do not exceed Rs. 500.

4. In this Order "Linoleum" means a hard surface floor covering characterized by relatively thick wearing surface compressed on a hessian backing, the wearing surface of which shall consist of a composition containing a binder or cement of oxidised or polymerised drying oils and resins intimately mixed with cork or wood flour and mineral fillers or combination of fillers and pigments.

ANNEXURE—I

SPECIFICATION FOR LINOLEUM

1. General Requirements

1.1 The linoleum shall be manufactured as per design or pattern as may be agreed to between the buyer and the exporter.

2. Materials

2.1 The wearing surface of the linoleum shall be made by use of suitable proportion of the following materials :

- Oxidized or polymerized linseed oil or other suitable drying oil, with necessary driers;
- Rosin or resin or their combination;
- Cork flour or wood flour or both;
- Mineral fillers; and
- Colouring material or pigments

2.2 The minimum requirement of hessian used for backing shall conform to Type-II of IS : 2818 (Part-II)—1971.

3. Dimensions and Tolerances.

3.1 **Midth of Sheet**—The average value of the sheet shall not vary by more than ± 3 mm of the value agreed to between the buyer and the exporter.

3.2 **Thickness**—Unless otherwise agreed to between the buyer and the exporter the average value of the thickness of linoleum sheet shall not vary by more than $\pm .15$ m to the agreed value.

4. Finish

4.1 The surface of linoleum shall be smooth, uniform and shall be free from indentations, wrinkles, cracks and protruding particles.

4.2 The hessian backing shall not be painted unless otherwise specified.

For plain, Inland, Marbline and Jaspe Types only.

5. Identification

5.1 When tested by the standard method, the residual indentation shall not exceed 10 per cent of the original overall thickness.

6. Flexibility

6.1 Test pieces measuring 50x200 mm cut from sample piece longitudinally and transversely when tested as per standard method shall pass the requirement for breaks, cracks or other damages.

7. Water Absorption

7.1 When tested by the standard method, the water absorption shall not exceed the following :

For Thickness mm.	Water Absorption Per cent. Max.
4.5	5.5
3.2	6.5
2.0	10.0
1.6	11.5

8. Ageing

8.1 When tested as per the standard method, the sheets shall show no sign of discolouration and shall also satisfy the requirements of residual indentation, flexibility, colour, fastness and water absorption after ageing.

Note : The standard methods of test for the above requirements shall be as per the relevant Indian Standards i.e. IS 653—1980 or the standard of any other country as mutually agreed to between the buyer and the exporter.

ANNEXURE—II

Draft rules proposed to be made under section 17 of the Export (Quality Control & Inspection) Act, 1963 (22 of 1963).

1. **Short title and commencement.**—(i) These rules may be called the Export of Linoleum (Quality Control & Inspection) Rules, 1988.

(ii) These shall come into force on the date of their final publication in the Official Gazette.

2. **Definitions.**—In these rules, unless the context otherwise requires :

(a) "Act" means the Export (Quality Control & Inspection) Act, 1963 (22 of 1963);

(b) "Council" means the Export Inspection Council established under section 3 of the Act;

(c) "Agency" means any one of the Export Inspection Agencies established under section 7 of the Act for certification under In-process Quality Control and established/recognized for consignmentwise inspection;

(d) "Linoleum" shall mean a hard surfaced floor covering characterized by relatively thick wearing surface compressed on a hessian backing, the wearing surface of which shall consist of a composition containing a binder or cement of oxidised or polymerised drying oils and resins intimately mixed with cork or wood flour and mineral fillers or combination of fillers and pigments.

(e) "In-process Quality Control" (hereafter also referred to as IPQC) means a system of quality control by which a manufacturing unit ensures that linoleum are manufactured to conform to the standard specification by exercising controls at different stages of purchase of materials and components, manufacture, inspection, preservation and packing, in a manner as laid down by the Council;

(f) "Consignmentwise Inspection" means the process of determining whether a consignment of linoleum meant for export complies with the standard specifications, by inspections and testing by the Agency in a manner as laid down by the Council.

(g) "Approved Unit" means a manufacturing unit approved by the Agency as having satisfied the requirements of IPQC.

(h) "Periodic Visit" means a visit made by Officer(s) of the Agency to the approved unit at intervals to ensure compliance of the requirements of IPQC in the unit; and

(i) "Spot Check" means an inspection by the Agency of export consignment to ensure its conformity to the standard specifications in a manner as laid down by the Council.

3. **Basis of Inspection.**—Inspection of linoleum intended for export shall be carried out with a view to seeing that the same conforms to the standard

specifications recognized by the Central Government under section 6 of the Act;

either

- (i) by ensuring that the products have been manufactured by exercising necessary in-process quality control as specified in Appendix-A to this notification in respect of units coming under in-process quality control system of inspection,

or

- (ii) on the basis of inspection and testing carried out in the manner specified in Appendix-B to these rules in respect of units coming under consignmentwise system of inspection.

4. Procedure of Inspection —(1) An exporter intending to export consignment of linoleum shall give an intimation in writing to the agency furnishing therein details of the contractual specification along-with a copy of the export contract or order to enable the agency to carry out inspection in accordance with the provisions of rule 3.

(2) For export of linoleum manufactured by exercising adequate in-process quality control as laid down in Appendix-A and the manufacturing unit adjudged as having adequate in-process quality control drills by a panel of experts constituted by the Council for this purpose, the exporter shall also furnish alongwith the intimation mentioned in sub-rule (2) declaration that the consignment of linoleum intended for export has been manufactured by exercising adequate quality control as laid down in Appendix-A and that the consignment conforms to the standard specifications recognized for the purpose.

(3) The exporter shall furnish to the agency the identification marks applied to the consignment to be exported.

(4) Every intimation under sub-rule (1) above shall be given not less than seven days prior to the despatch of the consignment from the manufacturer's premises, while in the case of intimation alongwith declaration under sub-rule (2) shall be given not less than three days prior to the despatch of the consignment from the manufacturer's premises;

(5) On receipt of the intimation under sub-rule (1) and the declaration, if any, under sub-rule (2) the agency :—

- (a) (i) On satisfying itself that during the process of manufacture, the manufacturer had exercised adequate quality controls as laid down in Appendix-A and followed the instructions, if any, issued by the Council or Agency in this regard to manufacture the product to conform to the specifications recognized for the purpose, shall within three days issue a certificate declaring the consignment of linoleum as exportworthy;

- (ii) In case where the manufacturer is not the exporter, however, the consignment shall be physically verified and such verification and inspection, if necessary, shall be carried out by the Agency to ensure that the above conditions are complied with.

- (iii) The agency shall, however, carry out the spot check of some of the consignments meant for export and shall visit the manufacturing unit at regular intervals to verify the maintenance of the adequacy of in-process quality control drills adopted by the unit.

- (iv) If the manufacturing unit is found not adopting the required quality control measures at any stage of manufacture or does not comply with the recommendations of the Council or Agency, the unit shall be declared as not having adequate in process quality control drills and in such cases, the unit if so desired, shall apply afresh for adjudgement of the maintenance of adequacy of inprocess quality control drills.

- (b) In case where the exporter had not declared under sub-rule (2) of rule 4 that adequate quality control as laid down in Appendix-A had been exercised, on satisfying itself that the consignment of linoleum conforms to the standard specifications recognized for the purpose, on the basis of inspection and testing carried out as laid down in Appendix-B shall within seven days of carrying out such inspection issue a certificate declaring the consignment as exportworthy.

Provided that where the agency is not so satisfied, it shall within the said period of seven days|three days refuse to issue a certificate to the exporter and shall communicate such refusal to the exporter alongwith the reasons.

- (c) (i) In case where the manufacturer is not the exporter under sub-rule (5) (a) or consignment is inspected under sub-rule (5) (b) the agency shall immediately after completion of the inspection seal the packages in the consignment in the manner so as to ensure that the sealed packages cannot be tampered with.

- (ii) In case of rejection of the consignment, if the exporter so desires the consignment may not be sealed by the agency but in such cases, however, the exporter shall not be entitled to prefer any appeal against the rejection.

5. Place of Inspection.—Every inspection under these rules shall be carried out either (a) at the premises of the manufacturer of such product; or (b) at the premises at which the goods are offered by the exporter for inspection, provided adequate facilities for the purpose exist therein.

6. **Inspection Fee.**—Inspection fee shall be paid by the exporter to the agency as under :

(a) for exports under in-process quality control scheme at the rate of 0.2 per cent of the t.o.b. value subject to a minimum of Rs. 20/- per consignment.

(b) for exports under consignmentwise inspection at the rate of 0.4 per cent of the f.o.b. value subject to a minimum of Rs. 20/- per consignment.

7. **Appeal.**—(1) Any person aggrieved by the refusal of the agency to issue a certificate under sub-rule (5) of rule 4, may within ten days of the receipt of communication of such refusal by him, prefer an appeal to a panel of experts consisting of not less than three but not more than seven persons as may be constituted by the Central Government.

(2) The panel of experts shall consist of atleast two thirds of non-officials of the total membership.

(3) The quorum for the panel of experts shall be three.

(4) The appeal shall be disposed of within fifteen days of its receipt.

APPENDIX—A

In-process Quality Control

The quality control of the linoleum intended for export shall be done with a view to seeing that the same conforms to the specifications recognized by the Central Government under section 6 of the Act by effecting the following controls at different stages of manufacture, preservation and packing of products as laid down below together with the levels of control as set out in the Schedule appended hereto.

(1) **Incoming Material Control.**—(1) All purchase of materials meant for manufacturing/processing of the linoleum in the manufacturing/processing unit shall be against documented specifications and their acceptance shall be made only after carrying out inspection and testing as per appropriate sampling plan and criteria.

(b) The accepted consignments shall be either accompanied by the supplier's test or inspection certificate corroborating the requirements of the purchase specifications in which case, occasional checks shall be conducted atleast once in 10 consignments by the manufacturer of linoleum for a particular supplier to verify the correctness of the aforesaid test or inspection certificates or the purchase materials shall be regularly inspected and tested before purchase either in a laboratory within the factory or in an outside laboratory or testing house. Records of such checks of inspection and testing shall be maintained.

(c) After the inspection/test is carried out, systematic methods shall be adopted in segregating the accepted and rejected materials and in disposal of rejected materials.

(2) **Process/Manufacturing Control.**—(a) Detailed process specifications shall be laid down by the manufacturer for different processes of manufacture.

(b) Equipment, instrumentation and facilities shall be adequate to control the process as laid down in the process specification;

(c) Adequate records shall be maintained by the manufacturer to ensure the possibility of verifying the controls exercised during the process of manufacture.

(3) **Product Control.**—(a) The manufacturer shall either have his own adequate testing facilities or shall have access to such testing facilities existing elsewhere to test the product as per the specifications recognized, under section 6 of the Act;

(b) Sampling (wherever required) for testing shall be based on a recorded investigation;

(c) Adequate records in respect of tests carried out shall be regularly and systematically maintained by the manufacturer.

(4) **Preservation Control.**—(a) A detailed specification shall be laid down by the manufacturer to safeguard the product from adverse effects of weather conditions;

(b) The product shall be adequately preserved both during storage and transit to the port of shipment.

(5) **Packing Control.**—(a) The linoleum meant for export shall be packed with film or textile material as laid down in the export contract. In the absence of the same, the manufacturer shall lay down his own detailed packing specifications for the packages in accordance with the sound commercial practice duly approved by the Export Inspection Council;

(b) Unless otherwise stipulated by the buyers all packages shall be suitably marked with the name of the manufacturer, quantity, port of shipment and shipping mark.

SCHEDULE

Levels of control for linoleum

Sl. No.	Characteristics	Requirement	No. of samples to be tested	Frequency	Remarks
1	2	3	4	5	6
1.	Design and Pattern	Standard specification recognised for the purpose	Each Roll/ Carpet	100 %	..
2.	Finish	-do-	-do-	100 %	...
3.	Requirement of Hessian Backing	-do-	One sample	Per batch	...
4.	Dimensions				
	(a) Width	-do-	Each Roll/ Carpet	100 %	...
	(b) Thickness	-do-	-do-	100 %	...
	(c) Length	-do-	-do-	100 %	...

1	2	3	4	5	6
5. Colour and its Pattern Uniformity	Standard specification recognised for the purpose	Each Roll/ Carpet	100 %	When ever applicable	
Tests to be conducted for plain and in-laid types					
6. Indentation Test	Standard specification recognised for the purpose	One	Per batch	...	
7. Water Absorption Test	-do-	-do-	-do-	...	
8. Flexibility	-do-	-do-	-do-	...	

APPENDIX—B

Consignmentwise Inspection

1. The consignment of linoleum shall be subjected to inspection and testing to ensure conformity of the same specifications recognized under section 6 of the Act.

2. In the absence of stipulation in the export contract as regards sampling and criteria of conformity, all rolls of sheet linoleums of the same type, thickness and manufactured from same batch shall be grouped together to constitute a lot.

2.1 The number of rolls to be selected at random from the lot for determining the conformity of the lot to this specification shall depend upon the size of the lot and shall be in accordance with Cols. 1 and 2 of the Table given below :-

TABLE

Sample Size and Criterion for Conformity for Sheets		
No. of Rolls in the lot	No. of rolls to be Selected in the Sample	Permission No. of defective rolls
(1)	(2)	(3)
Upto 50	3	0
51 to 150	5	0
151 to 300	8	0
301 to 500	13	0
501 to 1000	20	0
1001 and above	32	1

2.2 Criteria for Conformity.—The number of rolls/sheets selected in accordance with 2.1 shall be tested for all the requirements of this specification. A roll/sheet failing in respect of one or more of the requirements shall be called a defective roll/sheet. If the number of defective rolls/sheets in the sample is less than or equal to the corresponding permissible number given in col. 3 of the Table above, the lot shall be considered as conforming to the requirements of this specification. If the number of defective rolls/sheet be considered as not conforming to the requirements of this specification.

3. Long duration tests|Type tests.—Where export contract provide for tests relating to shelf life|performance test|guarantee criteria and the test for the same cannot be performed within the stipulated period (seven days or so) samples at a frequency of one in ten consignments and tested on post-facto basis and the certificate of inspection may be issued based on the past performance. However, the agencies, shall satisfy themselves that the test which will be carried out on post-facto basis has already been conducted by the exporter|manufacturer and the consignment will be allowed for export provided the tests carried out by the exporter| manufacturer meets the requirements of the export contract.

[F. No. 6(5)|88-EI&EP]

का. आ. केन्द्रीय 3065—सरकार, (निर्यात) (स्वातिटी नियंत्रण और निरीक्षण) अधिनियम, 1963 (1963 का 22) की धारा 7 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मैंसेम थैराप्यूटिक्स कैमिकल रिसर्च कॉर्पोरेशन, हमीद मैशन, 27-मोरे स्ट्रीट, मद्रास-600 001 को यहाँ उससे उपानेज अनुसूची में विनिर्दिष्ट मैगनीज तथा अयस्क ग्रुप-I व ग्रुप-II का निर्यात से पूर्व निरीक्षण करने के लिए हम अधिसूचना के प्रकाशन की तारीख से एक वर्ष की अवधि के लिए इन शर्तों के अधीन अधिकरण के रूप में मान्यता देती है, कि संगठन मैगनीज तथा अयस्क ग्रुप-I व ग्रुप-II के निर्यात (निरीक्षण) नियम, 1965 के नियम 4 के उपनियम 4 के अंतर्गत निर्यात निरीक्षण परिषद के किसी भी अधिकारी को निरीक्षण प्रमाणपत्र जारी करने के लिए संगठन द्वारा उपन्याई गई निरीक्षण प्रणाली की जांच करने के लिए पर्याप्त सुविधाएं देगा।

अनुसूची

खनिज तथा अयस्क (ग्रुप - I)

1. मैगनीज अयस्क, मैगनीज डाइक्साइड सहित,
2. आयरन अयस्क,
3. बाक्साइट, कलमिड बाक्साइट सहित,
4. रोमनीज, फोमनीज स्लेग सहित

खनिज तथा अयस्क (ग्रुप - II)

1. मैगनीज डाइक्साइड,
2. क्रोम अयस्क, क्रोम चूर्ण सहित,
3. कायनाइट,
4. सिलिमैनाइट,
5. संकेन्द्रित जिंक सहित कच्चा जिंक,
6. परिवर्ध और निरूपित मंगनीमा ट मैगनीज मैगनेसाइट,
7. बैराइटिस,
8. लाल बाक्साइट,
9. पीसा गरिक,
10. सेलजडी,
11. स्फोटीय (फैल्डस्पार)

[फाईल सं. 5(11)/88 - ई आई. एंड ई. पी]

एन. एम. हरिहरन, निदेशक

S.O. 3065.—In exercise of the powers conferred by section 7 of the Export (Quality Control and Inspection) Act, 1963 (22 of 1963), the Central Government hereby recognises for a period of one year from the date of publication of this notification M/s. Therapeutics Chemical Research Corporation, Hamid

Mansion, 27, Moore Street, Madras-600001 as an agency for inspection of the Minerals and Ores Group-I and Group-II specified in Schedule annexed hereto prior to export subject to the condition that the organisation shall give adequate facilities to any officer of the Export Inspection Council to examine the method of inspection followed by the organisation in granting the certificate of inspection under sub-rule (4) of rule 4 the Export of Minerals and Ores Group-I and Group-II (Inspection) Rules. 1965.

SCHEDULE

I. Minerals and Ores Group-I.

1. Manganese Ore, excluding manganese dioxide.
2. Iron Ore.
3. Ferromanganese including ferromanganese slag.
4. Bauxite, including calcined bauxite.

II. Minerals and Ores Group-II.

1. Manganese Dioxide.
2. Chrome ore, including chrome concentrates
3. Kyanite.
4. Sillimanite.
5. Zinc ores, including zinc concentrates.
6. Magnesite, including dead-burnt and calcined magnesites.
7. Barytes.
8. Red Oxide.
9. Yellow Ochre.
10. Steatite.
11. Feldspar.

[F. No. 5/11/88-Elxp]

N. S. HARIHARAN, Director

मुख्य नियंत्रक आयात-निर्यात का कार्यालय

नई दिल्ली 22 सितम्बर, 1988

आदेश

का. आ. 3066—मैसर्स मशीन टूल्स (इण्डिया) लि., जी-24, साउथ एक्सटेंशन पार्ट 2, नई दिल्ली को 1985-88 के आयात नीति के पैरा 114(1) के तहत स्टॉक एवं बिक्री हेतु प्रतिनिधित्व पत्रों के आयात के लिए 22,25,971 रु. (बाईस लाख पच्चीस हजार नौ सौ इकहत्तर रुपये मात्र) का एक आयात लाईसेंस सं. पी/एफ 0498125 दिनांक 16-4-87 दिया गया था।

2. पार्टी ने उपर उल्लिखित आयात लाईसेंस की सीमा शुल्क प्रयोजन प्रति की अनुमिति जारी करने के लिए इस आधार पर आवेदन किया है कि मूल सीमाशुल्क प्रति सीमाशुल्क सदन, कलकत्ता से दस्तावेज प्राप्त हो गई है। अपने तर्कों के समर्थन में उन्होंने 1985-88 के लिए आयात नियंत्रण प्रक्रिया पृष्ठक के पैरा-86 में यथा अपेक्षित एक गणपत्र दर्जित किया है। अनुमिति सीमाशुल्क प्रयोजन लाईसेंस प्रति 20,95,253/ रु. (बीस लाख पचास हजार दो सौ तिरपन रुपये मात्र) की शेष उपयुक्त राशि के लिए अपेक्षित है। पार्टी इस बात से सहमत है और बताने दिया है कि यदि उक्त लाईसेंस वाद में प्रस्ता हो गया तो मूल लाईसेंस को इस कार्यालय को लौटा दिया जाएगा।

3. मैं संतुष्ट हूँ कि आयात लाईसेंस सं. पी/एफ 0498125, दिनांक 16-4-87 की मूल सीमाशुल्क प्रयोजन प्रति सीमाशुल्क कार्यालय, कलकत्ता में खो गई है। यथासंशोधित आयात नियंत्रण आदेश, 1985, दिनांक 7-12-1955 की उपपारा 9(घ) द्वारा प्रकृत अधिकारों का प्रयोग करते हुए मैं आयात लाईसेंस सं. पी/एफ 0498125 दिनांक 16-4-87 की सीमाशुल्क प्रयोजन प्रति को एतद्वारा रद्द करता हूँ। 20,95,253/ रु. की शेष राशि के लिए सीमाशुल्क प्रयोजन प्रति की अनुमिति एतद्वारा रद्द की गई मूल सीमाशुल्क प्रयोजन प्रति की एवज में खलन हो जारी की जा रही है।

[सं. 13-एम/स्पायर्स ए एम-86/ए एल एस]

एन. एस. कृष्णामूर्ति, उप मुख्य नियंत्रक, आयात-निर्यात

Office of the Chief Controller of Imports and Exports,

New Delhi, the 22nd September, 1988

S.O. 3066.—M/s. Machine Tools (India) Ltd., D-24, South Extension Part-II, New Delhi were granted an Import Licence No. P/F/0498125 dated 16-4-87 for Rs. 22,25,971 (Rupees Twenty two lakh twenty five thousand nine hundred and seventy one only) for import of spares for stock and sale under para 114(i) of Import Policy for 1985-88.

2. The party have now applied for issue of a duplicate copy of customs purpose copy of the I/L on the ground that the original customs copy has been misplaced at Customs House, Calcutta. In support of their contention they have executed an affidavit as required under para 86 of the Handbook of Import Export Procedures 1985-88. The duplicate customs purpose copy is required for the unutilised balance amount of Rs. 20,95,253/- (Rupees Twenty lakh ninety five thousand two hundred and fifty three only). The party have agreed and undertaken to return the original licence, if traced later, to this Office.

3. I am satisfied that the original Customs Purpose copy of Import Licence No. P/F/0498125 dated 16-4-87 has been lost at the Customs House, Calcutta. In exercise of powers conferred under sub-clause 9(d) of Import Control Order, 1955 dated 7-12-55 as amended, I hereby cancel the Customs Purpose copy of the Import Licence No. P/F/0498125 dated 16-4-87. A duplicate Customs Purpose copy of the licence is being issued to the party in lieu of the original Customs Purpose copy cancelled hereby for the unutilised amount of Rs. 20,95,253/-.

[No. 13-M/Spares/AM-86/ALS]

N. S. KRISHNAMURTHY, Dy. Chief Controller of Imports & Export for Chief Controller of Imports & Export

उद्योग मंत्रालय

(औद्योगिक विकास विभाग)

नई दिल्ली, 28. सितम्बर, 1988

का. प्रा. 3067 —केन्द्रीय सरकार, सरकारी स्थान (अप्राधिकृत अधिभोगियों की बेदखली) अधिनियम, 1971 (1971 का 40) की धारा 3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए और अधिसूचना सं. का. प्रा. 498(अ) तारीख 9 जुलाई, 1984 को, उन बातों के सिवाय अधिकृत करते हुए, जिन्हें ऐसे अधिक्रमण से पहले किया गया है या करने का लोग किया गया है, नीचे की सारणी के स्तंभ (1) में उल्लिखित अधिकारियों को, जो सरकार के राजपत्रित अधिकारी की पंक्ति के समतुल्य अधिकारी हैं, उक्त अधिनियम के प्रयोजन के लिए संपदा अधिकारी नियुक्त करती है और उक्त अधिकारी उक्त अधिनियम द्वारा या उसके अधीन संपदा अधिकारियों को प्रदत्त शक्तियों का प्रयोग और उन पर अधिरोपित कर्तव्यों का निर्वाह, उक्त सारणी के स्तंभ (2) में विनिर्दिष्ट लोक परिसरों की बाबत अपनी-अपनी अधिकारिता की स्थानीय सीमाओं के भीतर रहते हुए करेंगे।

सारणी

क्रम सं.	अधिकारी का पदनाम	लोक परिसर के प्रवर्ग और अधिकारिता की स्थानीय सीमाएं
(1)	(2)	(3)
1.	निदेशक, उपनिदेशक, और सहायक निदेशक (प्रशासन), खादी और ग्रामोद्योग आयोग, मुम्बई।	परिसरों, जिनको केन्द्रीय सरकार और/या खादी ग्रामोद्योग आयोग, मुम्बई की या उसमें निहित या उनके द्वारा पट्टे पर ली गई, या उनके स्वामित्वाधीन भूमि और भवन हैं जिनके अन्तर्गत उसके कर्मचारियों को स्टाफ क्वार्टर्स के रूप में आबंटित परिसर भी हैं।
2.	निदेशक, उपनिदेशक/सहायक निदेशक, राज्य कार्यालय, खादी ग्रामोद्योग आयोग, लाजपत राय भवन, केमरबाग, लखनऊ।	परिसरों जिनको केन्द्रीय सरकार और/या खादी और ग्रामोद्योग आयोग लखनऊ की या उनमें निहित या उनके द्वारा पट्टे पर ली गयी या उसके स्वामित्वाधीन भूमि और भवन हैं जिनके अन्तर्गत उसके कर्मचारियों को स्टाफ क्वार्टर्स के रूप में आबंटित परिसर भी हैं।
3.	निदेशक उपनिदेशक/सहायक निदेशक, राज्य कार्यालय, खादी और ग्रामोद्योग आयोग, 7, भालवीयनगर भोपाल-3	परिसरों जिनमें केन्द्रीय सरकार और/या खादी और ग्रामोद्योग आयोग भोपाल की या उनमें निहित या उनके द्वारा पट्टे पर ली गई या उसके स्वामित्वाधीन भूमि और भवन हैं जिनके अन्तर्गत उनके कर्मचारियों को स्टाफ क्वार्टर्स के रूप में आबंटित परिसर भी हैं।
4.	निवासी प्रतिनिधि, खादी और ग्रामोद्योग आयोग ए-1, बाबा खड़ग सिंह मार्ग, नई दिल्ली।	परिसरों जिनमें केन्द्रीय सरकार और/या खादी ग्रामोद्योग आयोग, नई दिल्ली की या उनमें निहित या उनके द्वारा पट्टे पर ली गयी या उसके स्वामित्वाधीन भूमि और भवन हैं जिनके अन्तर्गत उसके कर्मचारियों को स्टाफ क्वार्टर्स के रूप में आबंटित परिसर भी हैं।
5.	निदेशक, उपनिदेशक/सहायक निदेशक, राज्य कार्यालय, खादी और ग्रामोद्योग आयोग, डा. डी. पी. गुंडप्पा रोड, बासबागुड्डी, पो. बा. 487, बंगलूर-560004	परिसरों जिनमें, केन्द्रीय सरकार और/या खादी और ग्रामोद्योग आयोग बंगलूर की या उनमें निहित या उनके द्वारा पट्टे पर ली गयी या उनके स्वामित्वाधीन भूमि और भवन हैं जिनके अन्तर्गत उसके कर्मचारियों को स्टाफ क्वार्टर्स के रूप में आबंटित परिसर भी हैं।
6.	निदेशक, उपनिदेशक/सहायक निदेशक या खादी और ग्रामोद्योग आयोग के कृत्यकारी, जो खादी और ग्रामोद्योग आयोग के अन्य बाह्य स्थान के कार्यालयों में समतुल्य प्रस्थित धारण किए हुए हैं।	परिसरों, जिनमें केन्द्रीय सरकार और/या खादी और ग्रामोद्योग आयोग की या उनमें निहित या उनके द्वारा पट्टे पर ली गई या उनके स्वामित्वाधीन भूमि और भवन हैं या देश में के अन्य स्थान जिनके अन्तर्गत ऐसे स्थानों पर इसके कर्मचारियों को स्टाफ क्वार्टर्स के रूप में आबंटित परिसर भी हैं।

[फा.सं. 3(7)/88के.वी.आई(1)]

जी. वेंकटरमणन, संयुक्त सचिव

MINISTRY OF INDUSTRY

(Department of Industrial Development)

New Delhi, the 28th Sept., 1988

S.O.3057.—In exercise of the powers conferred by Section 3 of the Public Premises (Eviction of Un-authorised Occupants) Act 1971 (40 of 1971) and in supersession notification No. S.O.498(E) dated the 9th July, 1987 except as respects things done or omitted to be done before such supersession, the Central Government hereby appoints the officers mentioned in Column (1) of the Table below being the officers of equivalent to the rank of gazetted officer of Government, to be estate officers, for the purpose of the said Act, and the said Officers shall exercise the powers conferred and perform the duties imposed on Estate Officers by or under the said Act within the local limits of their jurisdiction in respect of the Public Premises specified in column (2) of the said Table.

TABLE

Sr. No.	Designation of the Officers	Categories of the Public premises and local limits of jurisdiction
1	2	3
1.	Director, Deputy Director and Assistant Director (Administration), Khadi and Village Industries Commission, Bombay.	Premises consisting of land and buildings belonging to or vested in or taken on lease or owned by the Central Government and/or the Khadi and Village Industries Commission, Bombay including those premises allotted as staff quarters to its employees.
2.	Director/Deputy Director/Assistant Director, State Officers, Khadi and Village Industries Commission, Lajpat Rai Bhavan, Kaiserbagh, Lucknow.	Premises consisting of land and buildings belonging to or vested in or taken on lease or owned by the Central Government and/or the Khadi and Village Industries Commission, Lucknow, including those premises allotted as staff-quarters to its employees.
3.	Director, Deputy Director, Assistant, Director, State Office, Khadi and Village Industries Commission, 7, Malviya Nagar, Bhopal-3.	Premises consisting of land and buildings belonging to or vested in or taken on lease or owned by the Central Government and/or the Khadi and Village Industries Commission, Bhopal, including those premises allotted as staff-quarters to its employees.
4.	Resident Representative, Khadi and Village Industries Commission, A-1, Baba Kharak Singh Marg, New Delhi.	Premises consisting of land and buildings belonging to or vested in or taken on lease or owned by the Central Government and/or the Khadi and Village Industries Commission, New Delhi, including those premises allotted as Staff quarters to its employees.
5.	Director, Deputy Director, Assistant Director, State Office, Khadi and Village Industries Commission, Dr. D.V. Gundappa Road, Basayangudi, P.B. No. 496 Bangalore-560004.	Premises consisting of land and buildings belonging to or vested in or taken on lease or owned by the Central Government and/or the Khadi and Village Industries Commission, Bangalore, including those premises allotted as staff-quarters to its employees.
6.	Director, Deputy Director, Assistant Director or Khadi and Village Industries Commission functionaries holding equivalent status at the Khadi and Village Industries Commission's other outstation offices.	Premises consisting of land and buildings belonging to or vested in or taken on lease or owned by the Central Government and/or the Khadi and Village Industries Commission or other places in the country including the premises allotted as staff quarters to its employees at such places.

[F. No. 3(7)/88-KVI(I)]

G. VENKATARAMANAN, Jt. Secy.

(Deptt. of Chemicals & Petro-chemicals)

New Delhi, the 15th July, 1988

का. प्र. 3068—केन्द्रीय सरकार, राजभाषा (संघ के मासिकीय प्रयोजनों के लिए प्रयोग (नियम, 1976 के नियम 10 के उप-नियम (4) के अनुसरण में रसायन और पेट्रो-रसायन विभाग के नियंत्रणाधीन निम्नलिखित कार्यालयों को, जिनके 80% कर्मचारियों ने हिन्दी का कार्य-साधक ज्ञान प्राप्त कर लिया है, अधिसूचित करती है :

(1) इंडियन पेट्रो केमिकल्स कॉर्पोरेशन लि., क्षेत्रीय कार्यालय प्रणौक एस्टेट, (10वीं मंजिल) 24, बाराखम्भा रोड, नई दिल्ली 110001

(2) महाराष्ट्र एंटीबायोटिक्स एण्ड फार्मास्यूटिकल्स लि., एल-1 एम.आई.डी.सी. एरिया, हिंगना रोड, नागपुर-440016

[सं. ई. 11012/2 /87 हिन्दी]

एस. एस. रविदास अव्वर सचिव,

पेट्रो-रसायन और प्राकृतिक गैस मंत्रालय

नई दिल्ली, 30 सितम्बर, 1988

का. प्र. 3969—यतः केन्द्रीय सरकार को यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि उत्तर प्रदेश में तबादला से विल्ली पेट्रो-रसायन और प्राकृतिक गैस के परिवहन के लिए एच बी जे पाईपलाईन से एक पाईपलाईन भारतीय गैस प्राधिकरण लि. द्वारा बिछाई जानी चाहिए।

और यतः प्रतीत होता है कि ऐसी लाइनों को बिछाने का प्रयोजन के लिए एतदुपाय अनुसूची में वर्णित भूमि में उपयोग का अधिकार प्रदान करना आवश्यक है।

2491 GI/88—3

[No. E-11012/2/87-Hindi]

S. C. RAVI DASS, Under Secy.

अतः अब पेट्रोलियम और खनिज पाईप लाईन (भूमि में उपयोग अधिकार का अर्जन) अधिनियम, 1962 (1962 का 0) की धारा 3 की उपधारा (1) द्वारा प्रवृत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार ने उसमें उपयोग का अधिकार अर्जित करने का अपना आशय एतद्वारा घोषित किया है।

बशर्ते कि उक्त भूमि में हितवन्त कोई व्यक्ति उस भूमि के नीचे पाईप लाईन बिछाने के लिए आशेष सक्षम प्राधिकारी, भारतीय गैस प्राधिकरण लि. विकासवीथ बिल्डिंग, 22, स्टेशन रोड, लखनऊ-226019 यू.पी. को इस अधिसूचना की तारीख से 21 दिन के भीतर कर सकेगा।

और ऐसा आशेष करने वाला हर व्यक्ति विनिर्दिष्टव्या यह भी कथन करेगा कि क्या वह चाहता है कि उसकी सुधनाई व्यक्तिगत रूप से हो या किसी विधि व्यवसायी के मार्फत।

अनुसूची

एच.बी.जे. गैस पाइपलाइन परियोजना

जनपद	तहसील	परगना	ग्राम	गाटा सं.	क्षेत्रफल हेक्टेयर	विवरण
1	2	3	4	5	6	7
गाजियाबाद	दावरी	दावरी	गुलाबटी खुर्द	528	1.0400	
				531	0.1800	
				532	0.0060	
				533	0.0300	
				527	0.0180	
				514	0.0300	
				515	0.0550	
				516	0.0720	
				517	0.1300	
				518	0.0180	
				519	0.1380	
				520	0.0330	
				524	0.0040	
				555	0.0060	
				556	0.0050	
				560	0.0700	
				561	0.2456	
				562	0.0050	
				566	0.2460	
				567	0.0100	
				20	2.3410	
				568	0.0130	
				570	0.0750	
				570/620	0.2000	
				595	0.0060	
				596	0.0050	
				598	0.4300	
				599	0.0100	
				600	0.0950	
				601	0.0530	
				507	0.0100	
				10	0.8970	
				20	2.3410	
				30	3.2380	

MINISTRY OF PETROLEUM & NATURAL GAS

New Delhi, the 30th September, 1988

S.O. 3069.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of Petroleum and Natural Gas from H.B.J. pipeline to Delhi from Babrala in Uttar Pradesh State a pipeline should be laid by the Gas Authority of India Ltd.

And whereas it appears that for the purpose of laying such pipeline it is necessary to acquire the right of user in the land described in the schedule annexed hereto;

Now, therefore, in exercise of the powers conferred by sub-section (i) of the Section 3 of the Petroleum and Minerals

Pipeline (Acquisition of Right of User in the Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Provided that any person interested in the said land may, within 21 days from the date of this notification object to the laying of the pipeline under the land to the Competent Authority, Gas Authority of India Ltd. H.B.J. Pipeline Project, Vikas Deep Building, 22 Station Road, Lucknow-226019 U.P.

And every person making such an objection shall also state specifically whether he wishes to be heard in person or by legal practitioner.

H.B.J. Gas Pipe Line Project

District	Tehsil	Pargan	Village	Plot No.	Area in Hec.	Remarks
1	2	3	4	5	6	7
Ghaziabad	Dadri	Dadri	Gulawati Khurd	528	1.0400	
				531	0.1800	
				532	0.0060	
				533	0.0300	
				527	0.0180	
				514	0.0300	
				515	0.0550	
				516	0.0720	
				517	0.1300	
				518	0.0180	
				519	0.1380	
				520	0.0330	
				524	0.0040	
				555	0.0060	
				556	0.0050	
				560	0.0700	
				561	0.2450	
				562	0.0050	
				566	0.2460	
				567	0.0100	
				20	2.3410	
Ghaziabad	Dadri	Dadri	Gulawati Khurd	568	0.0130	
				570	0.0750	
				570/620	0.2000	
				595	0.0060	
				596	0.0050	
				598	0.4300	
				599	0.0100	
				600	0.0950	
				601	0.0530	
				507	0.0100	
				10	0.8970	
				20	2.3410	
				30	3.2380	

[No. O. 14016/75/88 G. P.]

का.प्र. 3070:—यतः केन्द्रीय सरकार को यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि उत्तर प्रदेश में बबराला से दिल्ली तक पेट्रोलियम और प्राकृतिक गैस के परिवहन के लिए एच. बी. जे. पाईपलाइन से एक पाइप लाइन भारतीय गैस प्राधिकरण लि. द्वारा बिछाई जानी चाहिए।

और यतः प्रतीत होता है कि ऐसी लाइनों को बिछाने के प्रयोजन के लिए एतद्वारा अनुसूची में वर्णित भूमि में उपयोग का अधिकार अर्जित करना आवश्यक है।

अतः अब पेट्रोलियम और खनिज पाइप लाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार ने उस में उपयोग का अधिकार अर्जित करने का अपना आशय एतद्वारा घोषित किया है।

बशर्ते कि उक्त भूमि में हितबद्ध कोई व्यक्ति उक्त भूमि के नीचे पाइप लाइन बिछाने के लिए आशेष सक्षम प्राधिकारी भारतीय गैस प्राधिकरण लि. विकासवीथ बिल्डिंग, 22 स्टेशन रोड, सखनऊ-226019 यू.पी. को इस अधिसूचना की तारीख से 21 दिनों के भीतर कर सकेगा।

और ऐसा आशेष करने वाला हर व्यक्ति बिनिविष्टतया यह भी कथन करेगा कि क्या 'बहु' चाहता है कि उसकी सुनवाई व्यक्तिगत रूप से हो या किसी विधि व्यवसायी के मार्फत।

[सं.ओ-14016/77/88-जी. पी.]

अनुसूची
एच.बी.जे. गैस पाइप लाइन प्रोजेक्ट

जमपद	तहसील	परगना	ग्राम	गाट	सं.	क्षेत्रफल बीघा	विवरण				
1	2	3	4		5	6	7				
गाजियाबाद	बावरी	बावरी	औरंगाबाद	22	160मि.	0-3-0					
				राज बाहा	164	0-3-0					
				166	171 मि.	0-17-0					
				82	171 मि.	0-12-10					
				रास्ता	171 मि.	0-0-10					
				179	178 मि.	2-3-15					
				133	178 मि.	0-0-10					
				चक मार्ग	178 मि.	0-1-0					
				69	178 मि.	0-11-10					
				91	176 मि.	2-17-0					
					177 मि.						
					241 मि.						
					178 मि.						
				124	177 मि.	0-2-10					
				145	177 मि.	0-5-10					
					241 मि.						
				नाली	177 मि.	0-0-10					
				185	177 मि.	0-0-5					
				138	195 मि.	1-0-0					
					238 मि.						
				चकमार्ग	195 मि.	0-0-5					
				204	195 मि.	0-0-10					
				116	235 मि.	0-15-15					
					195 मि.						
				195	235 मि.	1-0-0					
					236 मि.						
					195 मि.						
					237 मि.						
								19		10-15-0	
				गाजियाबाद	बावरी	बावरी	औरंगाबाद	167	237 मि.	1-2-0	
									234 मि.		
									250 मि.		
नाली	251 मि.	0-0-5									
29	251 मि.	0-6-0									
	261 मि.										
14	251 मि.	0-7-0									
	261 मि.										
48	261 मि.	0-1-10									
218	259 मि.	0-19-0									
	260 मि.										
	261 मि.										
सड़क	273	0-2-0									
उमचक	123	0-1-10									
नाली	261 मि.	0-0-5									
				9		2-19-10					
कुल योग				28		13-14-10					

S.O. 3070.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of Petroleum and Natural Gas from H.B.J. pipeline to Delhi from Bapra in Uttar Pradesh State a pipeline should be laid by the Gas Authority of India Ltd.

And whereas it appears that for the purpose of laying such pipeline, it is necessary to acquire the right of user in the land described in the schedule annexed hereto;

Now, therefore, in exercise of the powers conferred by sub-section 1 of the Section 3 of the Petroleum and Minerals Pipeline (Acquisition of Right of User in the Land) Act,

1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein ;

Provided that any person interested in the said land may, within 21 days from the date of this notification object to the laying of the pipeline under the land to the Competent Authority, Gas Authority of India Ltd. H.B.J. Pipeline Project, Vikas Deep Building, 22, Station Road, Lucknow-226019 U.P.

And every person making such an objection shall also state specifically whether he wishes to be heard in person or by legal practitioner.

SCHEDULE
H.B.J. Gas Pipe Line Project

District	Tehsil	Pargana	Village	Plot No.		Area	Remark
1	2	3	4	5		6	7
Ghaziabad	Dadri	Dadri	Aurangabad	22	160	0-3-0	
					164	0-3-0	
				166	171	0-17-0	
				82	171	0-12-10	
					171	0-0-10	
				179	178	2-3-15	
				133	178	0-0-10	
					178	0-1-0	
				69	178	0-11-10	
				91	176	2-17-0	
					177		
					241		
					178		
				124	177	0-2-10	
				145	177	0-5-10	
					241		
					177	0-0-10	
				185	177	0-0-5	
				138	195	1-0-0	
					238		
					195	0-0-5	
				204	195	0-0-10	
				116	235	0-15-15	
					195		
				195	235	1-0-0	
					236		
					195		
					237		
				19		10-15-0	
Ghaziabad	Dadri	Dadri	Aurangabad	167	237	1-2-0	
					234		
					250		
					251	0-0-5	
				29	251	0-6-0	
					261		
				14	251	0-7-0	
					261		
				48	261	0-1-10	
				218	259	0-19-0	
					260		
					261		
					273	0-2-0	
					123	0-1-10	
					261	0-0-5	
				9		2-19-10	
				28		13-14-10	

का.प्रा.सं. 3071 :—यतः केन्द्रीय सरकार को यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि उत्तर प्रदेश में बबराला से दिल्ली तक पेट्रोलियम और प्राकृतिक गैस के परिवहन के लिए एच. बी. जे. पाइप लाइन से एक पाइप लाइन भारतीय गैस प्राधिकरण लि. द्वारा बिछाई जानी चाहिए।

और यतः प्रतीत होता है कि ऐसी लाइनों की बिछाने का प्रयोजन के लिए एतद्पात्र अनुसूची में वर्णित भूमि में उपयोग का अधिकार अर्जित करना आवश्यक है।

अतः अब पेट्रोलियम और खनिज पाइप लाइन (भूमि में उपयोग अधिकार का भर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार ने उस में उपयोग का अधिकार अर्जित करने का अपना आशय एतद्वारा घोषित किया है।

नशते कि उक्त भूमि में हितबद्ध कोई व्यक्ति उस भूमि के नीचे पाइप लाइन बिछाने के लिए आक्षेप सक्षम प्राधिकारी, भारतीय गैस प्राधिकरण लि., बिकसदीप बिल्डिंग, 22, स्टेशन रोड, लखनऊ-226019 यू.पी. को इस अधिसूचना की तारीख से 21 दिन के भीतर कर सकेगा।

और ऐसा आक्षेप करने वाला हर व्यक्ति विनिश्चिततया यह भी कथन करेगा कि क्या वह चाहता है कि उसकी मुनबाई व्यक्तिगत रूप से हो या किसी विधि व्यवसायी के माफ़त।

अनुसूची

एच. बी. जे. पाइप लाइन प्रोजेक्ट

जनपद	तहसील	परगना	ग्राम	गाटा सं.	क्षेत्रफल बीघा	विवरण
1	2	3	4	5	6	7
गाजियाबाद	दादरी	दादरी	नूरपुर	116	1मि.	0-1-0
				नाली	1 मि.	0-0-5
				316	2 मि.	1-7-0
					3 मि.	
					4 मि.	
				चकमार्ग	2 मि.	0-0-10
				188	2 मि.	1-4-0
					4 मि.	
					14 मि.	
				124	14 मि.	1-3-0
					24 मि.	
				73	24 मि.	1-1-0
					26 अ मि.	
				1	24 मि.	0-8-0
					84 मि.	
				265	84 मि.	0-10-0
					76 मि.	
				रास्ता	84 मि.	0-1-0
					76 मि.	
				410	84 मि.	0-1-0
					76 मि.	
				383	76 मि.	1-4-0
				नाली	84 मि.	0-0-5
					76 मि.	
				192	91 मि.	1-13-0
					92 मि.	
					97 मि.	
					38 मि.	
					96	
					93 मि.	
				नाली	93 मि.	0-0-10
					97 मि.	
				15	8-14-10	

1	2	3	4	5	6	7
गाजिदाबाद	दादरी	दादरी	सूरपुर	279	95 मि. 105 मि. 121 मि. 122 मि.	1-7-10
				241	115 मि. 121 मि.	0-0-10
				403	115 मि. 121 मि.	1-0-10
				224	115 मि. 116 मि. 121 मि.	0-12-10
			रास्ता	173	117 मि. 117 मि. 135 मि.	0-0-10 0-17-10
				232	133 मि. 139 मि.	0-8-10
			नाली	269	141 मि. 139 मि.	0-0-5 0-2-5
				420	140 मि. 141 मि.	0-3-7
				340	140 मि. 141 मि.	0-2-0
				339	140 मि. 141 मि.	0-1-10
				12		3-7-17
				338	140 मि. 141 मि.	0-1-0
				136	140 मि. 141 मि.	0-0-10
				70	157 मि. 141 मि.	0-6-10
				68	134 मि.	0-0-10
				248	134 मि. 117 मि.	0-1-10
			रास्ता	415	157 मि. 156 मि. 156 मि. 173 मि.	0-0-5 1-2-15
				392	173 मि.	0-0-5
				297	172 मि. 173 मि.	0-2-10
			नाली	11	173 मि. 172 मि.	0-0-10 0-3-0
				389	173 मि. 172 मि.	0-6-10
				87	173 मि.	0-6-10

1	2	3	4	5	6	7
गामियाबाद	दादरी	दादरी	नूरपुर	89 नाली	173 मि. 172 मि. 173 मि.	0-5-15 0-0-10
				15		3-18-10
				255ए	178 मि. 179 मि. 186 मि.	1-2-0
				232	173 मि. 179 मि.	0-6-0
				253	185 मि.	0-6-0
				337	185 मि.	0-3-0
				336	185 मि.	0-6-0
				नाली	185 मि.	0-1-0
				290	186 मि. 185 मि.	0-3-0
				401	187 मि.	0-8-10
				105	187 मि.	0-10-0
				149	187 मि.	0-7-0
				नाली	187 मि.	0-0-5
				324	187 मि.	0-1-10
				235	95 मि.	0-0-10
				13		3-13-15
			कुल योग	55		19-14-12

[सं.ओ. 14016/79/88-जी.पी.]

S.O. 3071.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of Petroleum and Natural Gas from HBJ pipeline to Delhi from Babrala in Uttar Pradesh State a pipeline should be laid by the Gas Authority of India Ltd.

And whereas it appears that for the purpose of laying such pipeline, it is necessary to acquire the right of user in the land described in the schedule annexed hereto;

Now, therefore, it exercise of the powers conferred by sub-section (1) of Section 3 of the Petroleum and Minerals Pipeline (Acquisition of Right of User in the Land) Act, 1962 (50 of 1962), the Central Government

hereby declares its intention to acquire the right of user therein;

Provided that any person interested in the said land may, within 21 days from the date of this notification object to the laying of the pipeline under the land to the Competent Authority, Gas Authority of India Ltd, H.B.J. Pipeline Project, Vikas Deep Building, 22, Station Road, Lucknow-226019 U.P.

And every person making such an objection shall also state specifically whether he wishes to be heard in person or by legal Practitioner.

SCHEDULE
H.B.J. Gas Pipe Line Project

District	Tehsil	Pargana	Village	Plot No.	Area in acres	Remark
1	2	3	4	5	6	7
Ghaziabad	Dadri	Dadri	Noorpur	116	1m	0-1-0
				नाली	1m	0-0-5
				316	2m	1-7-0
					3m	
					4m	
				चक्रमार्ग	2m	0-0-10
				188	2m	1-4-0
					4m	
					14m	
				124	14m	1-3-0
					24m	

1	2	3	4	5	6	7
				73	24	1-1-0
					26	
				1	24	0-8-0
					84	
				265	84	0-1-0
					76	
					84	0-1-0
					76	
				410	84	0-1-0
					76	
				383	76	1-4-0
					84	0-0-5
					76	
				192	91	1-13-0
					92	
					97	
					38	
					96	
					95	
					95	0-0-10
					97	
				15		8-14-10
Ghaziabad	Dadri	Dadri	Noorpur	279	95	1-7-10
					105	
					121	
					122	
				241	115	0-0-10
					121	
				403	115	0-1-10
					121	
				224	115	0-12-10
					116	
					121	
					117	0-0-10
				73	117	0-17-10
					135	
				232	133	0-8-10
					139	
					141	0-0-5
				269	139	0-2-5
				420	140	0-3-7
					141	
				340	140	0-2-0
					141	
				339	140	0-1-10
					141	
				12		3-7-17
Ghaziabad	Dadri	Dadri	Noorpur	338	140	0-1-0
					141	
				136	140	0-0-10
					141	
				70	157	0-6-10
					141	
				68	134	0-0-10
				248	134	0-1-10
					117	
					157	0-0-5
				415	155	1-2-15
					156	
					173	

1	2	3	4	5	6	7
				392	173	0-0-5
				297	172	0-2-10
					173	
				11	173	0-0-10
					172	0-3-0
					172	
					173	
				389	173	0-6-10
					172	
				87	173	0-6-10
				89	173	0-5-15
					172	0-0-10
					173	
				15		3-18-10
Ghaziabad	Dadri	Dadri	Noorpur	255	178	1-2-0
					179	
					185	
				232	173	0-6-0
					179	
				255	185	0-6-0
				337	185	0-3-0
				336	185	0-6-0
					185	0-1-0
				290	186	0-3-0
				401	187	0-8-10
					186	
				105	187	0-10-0
				149	187	0-7-0
					187	0-0-5
				324	187	0-1-10
				235	95	0-0-10
				13		3-13-15
				55		19-14-12

[No. O 14016/79/88-G.P.]

क्र. आ. 3073 :—यतःपेट्रोलियम और खनिज पार्सेप लाईन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम 1962 (1982 का 50) की धारा 3 उपधारा (1) के अधीन भारत सरकार के पेट्रोलियम एवं प्राकृतिक गैस अधिसूचना क्र. आ. सं. तारीख 659 यिनकि 1-7-88 द्वारा केन्द्रीय सरकार ने उस अधिसूचना में संलग्न भूमिओं में विनिर्दिष्ट भूमियों के उपयोग के अधिकार को पण्डित नईनी को अल्लाने के लिए अर्जित करने का अपना आग्रह घोषित कर दिया था।

और यतः संक्षेप प्रसिद्धि में उक्त अधिनियम की धारा 10 की उपधारा (1) के अधीन सरकार को रिपोर्ट देनी है।

और आगे यतः केन्द्रीय सरकार ने उक्त रिपोर्ट पर विचार करते के पण्डित इस अधिसूचना में संलग्न भूमिओं में विनिर्दिष्ट भूमियों में उपयोग के अधिकार अर्जित करने का विनिश्चय किया है।

अब यतः उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्ति का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा घोषित करती है कि इस अधिसूचना में संलग्न भूमिओं में विनिर्दिष्ट भूमियों में उपयोग का अधिकार पण्डित नईनी के प्रयोग के लिए एतद्वारा अर्जित किया जाता है।

और आगे उस धारा की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार निर्देश देती है कि उक्त भूमियों में उपयोग

का अधिकार केन्द्रीय सरकार में निहित होने के साथ भारतीय गैस प्राधिकरण लि. में सभी वास्तवों में मूल्य का में बीपणा के प्रकाशन इस तारीख को निहित होगा।

अनुसूची काद अनुसूची

एत. श्री जी. पी. पार्सेप लाईन प्रोजेक्ट

अनुसूची	सहस्रों	परमिता	ग्रामा	गाटा नं.	क्षेत्रफल
1	2	3	4	5	6
जातीय	कोष	कोष	कोष	431	0 10
				432	0 14
				443	0 06
				448	0 18
				440	0 20
				309	0 33
					1 01एकड़

[क्र. ओ. 14016/136/85 जी. पी.]

S. O. 3072.—Whereas by Notification of the Government of India, in the Ministry of Petroleum S.O. 659E, dated 1-7-88 under sub-section (1) of section of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government declared its intention to acquire the right of user in the lands specified in the schedule appended to that notification for purpose of laying pipeline;

And whereas the Competent Authority has under sub-section (1) of Section 6 of the said Act, submitted report to the Government;

And further whereas the Central Government has, after considering the said report, decided to acquire the right of

user in the lands specified in the schedule appended to this notification;

Now, therefore, in exercise of the power conferred by sub-section (1) of the Section 6 of the said Act, the Central Government hereby declares that the right of user in the said lands specified in the schedule appended to this notification hereby acquired for laying the pipeline;

And further in exercise of power conferred by sub-section (4) of the section, the Central Government directs that the right of user in the said lands shall instead of vesting in Central Government vests on this date of the publication of this declaration the Gas Authority of India Limited free from encumbrances.

SCHEDULE

H.B.J. Gas Pipe Line Project

District	Tahsil	Pargana	Village	Plot No.	Area in acres	Remark
1	2	3	4	5	6	7
Jalaun	Konch	Konch	Konch	431	0-10	
				432	0-14	
				443	0-06	
				448	0-18	
				440	0-20	
				309	0-33	
					1-01	

[No. O 14016/136/85-G.P.]

का. भा. 3073.—यतः पेट्रोलियम और मिनरल पाईप लाईन (भूमि में उपयोग के अधिकार का प्रबंधन) अधिनियम 1962 (1962 का 50) की धारा 3 की उपधारा (1) के अधीन भारत सरकार के पेट्रोलियम एवं प्राकृतिक गैस अधिसूचना का. भा. सं. 660 तारीख 1-7-88 द्वारा केन्द्रीय सरकार ने उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमियों के उपयोग के अधिकार को पाईप लाईनों को बिछाने के लिए अर्जित करने का अपना अधिकार घोषित कर दिया था।

और यतः सक्षम अधिकारी ने उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन सरकार को रिपोर्ट दे दी है।

और आगे यतः केन्द्रीय सरकार ने उक्त रिपोर्ट पर विचार करने के पश्चात् इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमियों में उपयोग का अधिकार अर्जित करने का विनिश्चय किया है।

अब अतः उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्ति का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा घोषित करती है कि इस अधिसूचना में संलग्न अनुसूची विनिर्दिष्ट उक्त भूमियों में उपयोग का अधिकार पाईपलाइन बिछाने के प्रयोजन के लिए एतद्वारा अर्जित किया जाता है।

और आगे उस धारा की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार निर्देश देती है कि उक्त भूमियों में उपयोग का अधिकार केन्द्रीय सरकार में निहित होने के बजाय सार्वजनिक गैस प्राधिकरण लि., में सभी बातों से मुक्त रूप में वापस के प्रकाशन की इस शारीक की निहित होगी।

अनुसूची

एच. बी. पाईप गैस लाईन प्रोजेक्ट

जन्मस्थ	तहसील	परगना	ग्राम	गाटा नं.	क्षेत्रफल बिबरण
1	2	3	4	5	6
कानपुर	उरापुर	डेरापुर	सेफा-बाद	551	0-2-10
बैदास					

[सं. नो-14016/18/88 जी. पी.]

S. O. 3073.—Whereas by notification of the Government of India in the Ministry of Petroleum S.O. 660(E), dated 1-7-1988 under sub-section (1) of section of the Petroleum and Minerals Pipelines (Acquisition of Right of User in the Land) Act, 1962 (50 of 1962), the Central Government declared its intention to acquire the right of user in the lands specified in the schedule appended to that notification for purpose of laying pipeline;

And whereas the Competent Authority has under sub-section (1) of Section 6 of the said Act, submitted report to the Government;

And further whereas the Central Government has, after considering the said report, decided to acquire the right of user in the lands specified in the schedule appended to this notification;

Now, therefore, in exercise of the power conferred by sub-section (1) of the Section 6 of the said Act, the Central Government hereby declares that the right of user in the said lands specified in the schedule appended to this notification hereby acquired for laying the pipeline

And further in exercise of power conferred by sub-section (4) of the section, the Central Government directs that

the right of user in the said lands shall instead of vesting in Central Government vests on this date of the publication of this declaration the Gas Authority of India Limited free from encumbrances.

SCHEDULE
H.B.J. Gas Pipe Line Project

District	Tehsil	Pargana	Village	Plot No.	Area in Bigha	Remark
1	2	3	4	5	6	7
Kanpur Derat	Derapur	Derapur	Shaifabad	551	-0-2-10	

का. आ. 3074यतः पेट्रोलियम और खनिज पार्श्व लाइन (भूमि में उपयोग के अधिकार का अर्जन) (अधिनियम 1962) 1962 का 50 की धारा 3 की उपधारा (1) के अधीन भारत सरकार के पेट्रोलियम एवं प्राकृतिक गैस मंत्रालय अधिसूचना का. आ. सं. 710(ई) तारीख 19 जुलाई 88 द्वारा केन्द्रीय सरकार ने उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमियों के उपयोग के अधिकार को पार्श्व-लाइनों को बिछाने के लिए अर्जित करने का अपना आशय घोषित कर दिया था।

और यतः सक्षम प्राधिकारी ने उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन सरकार को रिपोर्ट दे दी है।

और आगे यतः केन्द्रीय सरकार ने उक्त रिपोर्ट पर विचार करने के पश्चात् इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमियों में उपयोग का अधिकार अर्जित करने का विनिश्चय किया है।

अब अतः उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्ति क. प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा घोषित करती है कि इस अधिसूचना में संलग्न अनुसूची विनिर्दिष्ट उक्त भूमियों में उपयोग का अधिकार पार्श्वलाइन बिछाने के प्रयोजन के लिए एतद्वारा अर्जित किया जाता है।

और आगे उस धारा की उपधारा (4) द्वारा प्रदत्त शक्तियों को प्रयोग करते हुए केन्द्रीय सरकार निर्देश देती है कि उक्त भूमियों में उपयोग का अधिकार केन्द्रीय सरकार में निहित होने के बजाय भारतीय गैस प्राधिकरण लि. में सभी बाधाओं से मुक्त रूप में घोषणा के प्रकाशन की इस तारीख को निहित होगा।

अनुसूची

खेपूर उस पार्श्व लाइन प्रोजेक्ट

जनपद	तहसील	परगना	ग्राम	गाटा नं.	क्षेत्रफल
कानपुर शहर कानपुर शहर	कानपुर शहर	रामपुर	427	0--1400	
			428	0--0200	
			416	0--1700	
			412	0--0650	
			411	0--0970	
			410	0--0770	
			409	0--0325	
			408	0--0050	
			413	0--0150	
			406	0--0100	
			401	0--0400	
			400	0--0600	
			398	0--0050	
			397	0--0900	
			396	0--0950	
			393	0--0100	

जनपद	तहसील	परगना	ग्राम	गाटा नं.	क्षेत्रफल
कानपुर शहर कानपुर शहर कानपुर शहर	कानपुर शहर भीमसेन	रामपुर		394	0--0800
				395	0--1800
				389	0--0050
				390	0--0050
				378	0--1300
				379	0--1200
				323	0--1620
				322	0--0500
				613	0--1450
				614	0--0650
				622	0--1500
				621	0--0600
				623	0--0800
				624	0--0600
				625	0--0100
				708	0--1300
				707	0--0025
				706	0--0050
				705	0--0700
				704	0--0050
				703	0--0750
				702	0--0950
				701	0--0900
				692	0--0100
				698	0--0200
				697	0--2900
				694	0--0100
				695	0--1150
				669	0--1850
				671	0--0023
				668	0--2000
				666	0--0050
				648	0--0050
				660	0--0025
				661	0--0950
				663	0--1450
				659	0--0023
				658	0--0200
				664	0--1550
				665	0--0050
				811	0--0700
				57	3--8835

S.O. 3074.—Whereas by notification of the Government of India in the Ministry of Petroleum and Natural Gas S.O. 710(E) dated 19-7-88 under sub-section (1) of Section 3 of the Petroleum and Minerals Pipeline (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government declared its intention to acquire the right of user in the lands specified in the schedule appended to that notification for purpose of laying pipeline;

And whereas the Competent Authority has under Sub-section (1) of Section 6 of the said Act, submitted report to the Government;

And further whereas the Central Government has, after considering the said report, decided to acquire the right of

user in the lands specified in the schedule appended to this notification;

Now, therefore, in exercise of the power conferred by sub-section (1) of the Section 6 of the said Act, the Central Government hereby declares that the right of user in the said lands specified in the schedule appended to this notification hereby acquired for laying the pipeline;

And further in exercise of power conferred by sub-section (4) of the section, the Central Government directs that the right of user in the said lands shall instead of vesting in Central Government vests on this date of the publication of this declaration the Gas Authority of India Limited free from encumbrances.

CASE (SCHEDULE)
SPUR GAS PIPE LINE PROJECT

District	Tahsil	Paragana	Village	Plot No.	Area in Hectare	Remarks
1	2	3	4	5	6	7
Kanpur City	Kanpur City	Kanpur City	Rampur Bhimsen	427	0.1400	
				426	0.0300	
				416	0.1700	
				412	0.0050	
				411	0.0970	
				410	0.0770	
				409	0.0325	
				408	0.0050	
				413	0.0150	
				406	0.0100	
				401	0.0400	
				400	0.0600	
				398	0.0050	
				397	0.0100	
				396	0.0050	
				393	0.0100	
				394	0.0800	
				395	0.1600	
				339	0.0050	
				390	0.0050	
				378	1.1300	
				379	0.1200	
				323	0.1620	
				322	0.0500	
				613	0.1450	
				614	0.0650	
				622	0.1500	
				621	0.0600	
				623	0.0800	
				624	0.0600	
				625	0.0100	
				708	0.1300	
				707	0.0025	
				706	0.0050	
				705	0.0700	
				704	0.0050	
				703	0.0750	
				702	0.0950	
				701	0.0900	
				692	0.0100	
				698	0.0200	
				697	0.2900	
				694	0.0100	
				695	0.1150	
				669	0.1850	

1	2	3	4	5	6	7
				671	0.0025	
				668	0.2000	
				666	0.0050	
				648	0.0050	
				660	0.0025	
				661	0.0950	
				663	0.1450	
				659	0.0025	
				658	0.0200	
				664	0.1550	
				665	0.0050	
				811	0.0700	
				57	3.08835	

[No. O 14016/63/88-G.P.]

का. मा. 3075--यतः पेट्रोलियम और खनिज पार्श्व लाईन (भूमि में उपयोग के अधिकार का अधिनियम 1952 (1962 का 50) की धारा 3 उपधारा (1) के अधीन भारत सरकार के पेट्रोलियम एवं प्राकृतिक गैस मंत्रालय अधिसूचना का. मा. सं. तारीख 214(ई) 19-7-88 द्वारा केन्द्रीय सरकार ने उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमियों के उपयोग के अधिकार को पार्श्व लाईनों की बिछाने के लिए अर्जित करने का अपना आशय घोषित कर दिया था।

और यतः सक्षम प्राधिकारी ने उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन सरकार को रिपोर्ट दे दी है।

और आगे यतः केन्द्रीय सरकार ने उक्त रिपोर्ट पर विचार करने के पश्चात् इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमियों में उपयोग का अधिकार अर्जित करने का विनिश्चय किया है।

अथ अतः उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्ति का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा घोषित करती है कि इस अधिसूचना में संलग्न अनुसूची विनिर्दिष्ट उक्त भूमियों में उपयोग का अधिकार पार्श्व लाईन बिछाने के प्रयोजन के लिए एतद्वारा अर्जित किया जाता है।

और आगे उस धारा की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार निवेदन देती है कि उक्त भूमियों में उपयोग का अधिकार केन्द्रीय सरकार में निहित होने के बजाय भारतीय गैस प्राधिकरण लि. में सभी बाधाओं से मुक्त रूप में घोषणा के प्रकाशन की इस तारीख को निहित होगा।

बाद अनुसूची

गैस पार्श्व लाईन प्रोजेक्ट

जन्म	तहसील	परगना	ग्राम	गाँव सं.	विवरण
1	2	3	4	5	6
कानपुर शहर	कानपुर शहर	कानपुर	सबैली	2137	0--2060
			गहर	2140	0--0720
				2139	0--1620
				2142	0--0025
				2143	0--0100
				2145	0--0100
				2147	0--0640
				2146	0--1440
				2148	0--1200
				2166	0--0150

1	2	3	4	5	6
				2184	0--0010
				2163	0--1620
				2179	0--0010
				2180	0--3240
				2181	0--0200
				2556	0--1400
				2557	0--0300
				2554	0--0300
				2556	0--3200
				2553	0--0100
				2541	0--0100
				12294	0--2500
				2295	0--0800
				2296	0--0800
				2298	0--1000
				2538	0--0050
				2539	0--0950
				2537	0--1250
				2308	0--0600
				2534	0--1800
				2486	0--0500
				2485	0--0400

कानपुर शहर	कानपुर शहर	कानपुर शहर	सबैली	2487	0 0900
				2489	0 0050
				2480	0 0250
				2478	0 3550
				2476	0 0100
				2477	0 1000
				2464	0 0050
				2462	0 0800
				2465	0 0100
				2466	0 0500
				2461	0 0250
				2460	0 0650
				2459	0 2400
				2454	0 0200
				2429	0 0200
				2418	0 1300
				2425	0 0150

6	6
2423	0 3000
2426	0 0100
2427	0 0250
1480	0 0300
1479	0 0050
1478	0 0100
1403	0 0900
1477	0 1100
1476	0 0900
1473	0 0050
1475	0 0400
1474	0 050
61	4 9735

3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government declared its intention to acquire the right of user in the lands specified in the schedule appended to that notification for purpose of laying pipeline;

And whereas the Competent Authority has under Sub-section (1) of Section 6 of the said Act, submitted report to the Government;

And further whereas the Central Government has after considering the said report, decided to acquire the right of user in the lands specified in the schedule appended to this notification;

Now, therefore, in exercise of the power conferred by sub-section (1) of the Section 6 of the said Act, the Central Government hereby declares that the right of user in the said lands specified in the schedule appended to this notification hereby acquired for laying the pipeline;

[सं. जी० --14016/67/88 जी पी.)]

S.O. 3075.—Whereas by notification of the Government of India in the Ministry of Petroleum and Natural Gas S.O. 714(E) dated 19-7-88 under sub-section (1) of Section

And further in exercise of power conferred by sub-section (4) of the section, the Central Government directs that the right of user in the said lands shall instead of vesting in Central Government vests on this date of the publication of this declaration the Gas Authority of India Limited free from encumbrances.

CASE (SCHEDULE) SPUR GAS PIPE LINE II PROJECT

District	Tahsil	Pargana	Village	Plot No.	Area in Hectares	Remarks
1	2	3	4	5	6	7
Kanpur City	Kanpur City	Kanpur City	Sachendi	2137	0.2000	
				2140	0.0720	
				2139	0.1620	
				2142	0.0025	
				2143	0.0100	
				2145	0.0100	
				2147	0.0640	
				2146	0.1440	
				2148	0.1200	
				2166	0.0150	
				2164	0.0010	
				2163	0.1620	
				2179	0.0010	
				2180	0.3240	
				2181	0.0300	
				2556	0.1400	
				2557	0.0300	
				2554	0.0300	
				2555	0.3200	
				2553	0.0100	
				2541	0.0100	
				2294	0.2500	
				2295	0.0800	
				2296	0.0800	
				2298	0.1000	
				2538	0.0050	
				2539	0.0950	
				2537	0.1250	
				2308	0.0600	
				2534	0.1800	
				2486	0.0500	
				2485	0.0400	

1	2	3	4	5	6	7
Kanpur City	Kanpur City	Kanpur City	Sachendi.	2487	0.0900	
				2489	0.0050	
				2490	0.0250	
				2479	0.3550	
				2476	0.0100	
				2477	0.1000	
				2464	0.0950	
				2462	0.0800	
				2465	0.0100	
				2466	0.0500	
				2461	0.0250	
				2460	0.0650	
				2459	0.2400	
				2454	0.0200	
				2429	0.0200	
				2418	0.1300	
				2425	0.0150	
				2424	0.3000	
				2426	0.0100	
				2427	0.0250	
				1480	0.0300	
				1479	0.0050	
				1478	0.0100	
				1463	0.0900	
				1477	0.1100	
				1476	0.0900	
				1473	0.0050	
				1475	0.0400	
				1474	0.0050	
				61	4.9735	

[No. O 14016/67/88-G.P.]

उर्जा मंत्रालय
(कोयला विभाग)

नई दिल्ली, 20 सितम्बर, 1988

का. घा. 3078—केन्द्रीय सरकार ने, कोयला सारक क्षेत्र (सर्जन और विकास) अधिनियम, 1957 (1957 का 20) की धारा 4 की उपधारा (1) के अधीन भारत सरकार के उर्जा मंत्रालय (कोयला विभाग) की अधिसूचना सं. का.घा. 3194, तारीख 20 सितम्बर, 1988 द्वारा, उक्त अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट परिसर में 169.00 एकड़ (लगभग) या 64.34 हेक्टर (लगभग) माप की भूमि में कोयले का खनन करने के अपने प्राधिकार की सूचना दी थी;

और केन्द्रीय सरकार का यह समाधान हो गया है कि उक्त भूमि में कोयला खनन करने के लिए;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 7 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए;

(क) इससे संलग्न अनुसूची I में वर्णित 63.37 एकड़ (लगभग) या 26.64 हेक्टर (लगभग) माप की भूमि, और

इससे संलग्न अनुसूची II में वर्णित 95.63 एकड़ (लगभग) या 38.70 हेक्टर (लगभग) माप की भूमि में खनन, खसम और करने, सुधार करने, उन्हें सलाह करने प्राप्त करने, उक्त पर कार्य करने और अधिकारों के अधिकारों के अपने प्राधिकार की सूचना देती है;

टिप्पणी: 1. इस अधिसूचना के अंतर्गत धारित होने वाले क्षेत्र के रेखांक का निरीक्षण उपर्युक्त, हजारीबाग (बिहार) के कार्यालय में या कोयला निरीक्षण, 1, कार्डिनल हाउस स्ट्रीट, कलकत्ता के

कार्यालय में या सेटल कोलफील्ड्स लिमिटेड (राज्य अनुभाग) दरभंगा हाउस, रांची, बिहार के कार्यालय में किया जा सकता है।

टिप्पणी: 2. कोयला सारक क्षेत्र (सर्जन और विकास) अधिनियम, 1957 (1957 का 20) की धारा 8 के उपबन्धों की ओर ध्यान आकृष्ट किया जाता है, जिसमें निम्नलिखित उपबन्ध हैं:

सर्जन के लिए प्राक्षेप:

“(8)(1) किसी ऐसी भूमि में, जिसकी बाबत धारा 7 के अधीन अधिसूचना जारी की गई है, जिसका कोई व्यक्ति अधिसूचना जारी की जाने के तीस दिन के भीतर सम्पूर्ण भूमि या उसके किसी भाग या ऐसी भूमि में या पर के किसी अधिकारों के सर्जन में प्रति प्राक्षेप कर सकेगा।

स्पष्टीकरण: इस धारा के अन्तर्गत यह प्राक्षेप नहीं माना जाएगा कि कोई व्यक्ति किसी भूमि में कोयला खनन के लिए स्वयं खनन संधियाएँ करना चाहता है और ऐसी संधियाएँ केन्द्रीय सरकार या किसी अन्य व्यक्ति को नहीं करनी चाहिए।

(2) उपधारा (1) के अधीन प्रत्येक प्राक्षेप सख्त प्राधिकारों की लिखित रूप में किया जाएगा और सख्त प्राधिकारों प्राक्षेपकर्ता को स्वयं खुद जाने का या विधि व्यवसायी द्वारा सुनवाई का प्रवर्तन होगा और ऐसे सभी प्राक्षेपों को सुनने के पश्चात् और ऐसी अनिश्चितता जांच, यदि कोई है, करने के पश्चात् जो यह प्राक्षेपक भव्यता है वह या तो धारा 7 की उपधारा (1) के अधीन अधिसूचित भूमि के या ऐसी भूमि में या उस पर के अधिकारों के संबंध में एक रिपोर्ट या ऐसी भूमि के निश्चित टुकड़ों या ऐसी भूमि में या उस पर के अधिकारों के संबंध में प्राक्षेपों पर अपनी

सिफारिशों और उसके द्वारा की गई कार्यवाही के अन्तिम गृहित विविध रिपोर्टें केन्द्रीय सरकार को उसके विनिश्चय के लिए वेगी।

(3) इस धारा के प्रयोजनों के लिए वह व्यक्ति किसी भूमि में हित-युक्त समझा जाएगा जो प्रतिफल में हित का दावा करने का हथकड़ी होता यदि भूमि या ऐसी भूमि में या उस पर के अधिकार इस अधिनियम के अधीन अर्जित किए जाते हैं।

टिप्पण : 3 केन्द्रीय सरकार के आंगण नियंत्रक, 1, काँग्रेस हाउस स्ट्रीट, कलकत्ता की उक्त अधिनियम के अधीन-सकल अधिकारी नियुक्त किया है।

शिरका विस्तार-6

वर्षा कर्मपुरा कोयला क्षेत्र

अनुसूची-1

आरेख सं. राजस्व/66/87
तारीख 19-9-1987
अर्जन की जाने वाली भूमि की
वर्णन हुए

गौरी अधिकार

ब्लॉक	ग्राम	थाना	घाटा सं.	जिगा	क्षेत्र	टिप्पणियाँ
प	सिरका	मोड़	136	हजारीबाग	38.50	भाग
अ	"	"	"	"	0.60	"
ग	"	"	"	"	0.64	"
घ	"	"	"	"	22.75	"
ङ	"	"	"	"	1.25	"
च	"	"	"	"	0.13	"
छ	"	"	"	"	0.10	"
			कुल क्षेत्र	63.37	एकड़ (लगभग)	
			या	25.64	हेक्टर (लगभग)	

ब्लॉक "क" :

ग्राम सिरका में अर्जित किए जाने वाले प्लॉट सं. :
244(भाग), 247(भाग), 354(भाग), 393(भाग),
394(भाग), 398(भाग), 397(भाग), 422(भाग)
423(भाग), 424, 428, 430(भाग) और
437(भाग)

सीमा वर्णन :

- क--अ रेखा प्लॉट सं. 244 से होकर जाती है।
ख--ग रेखा बामोवर बन्नी की उत्तरी सीमा के साथ-साथ जाती है।
ग--घ रेखा प्लॉट सं. 430 से और 437 से होकर जाती है।
घ--ङ रेखा प्लॉट सं. 437 और 431 की भागतः सम्मिलित सीमा के साथ-साथ सं. 423 से होकर 437 और 1024, 244 और 1024, 244 और 427, 428 और 426, 424 और 426, 424 और 425, 424 और 411, 424 और 420, 424 और 423, 397 और 423 के साथ सम्मिलित सीमा, प्लॉट सं. 422 से होकर 397 और 422 के साथ सम्मिलित सीमा, 422 और 414, 354 और 414, 354 और 402 के साथ भागतः सम्मिलित सीमा बनाती है।
ङ--च रेखा प्लॉट सं. 354 से होकर जाती है।

अ--क²--छ रेखा प्लॉट सं. 354 और 401, 354 और 400, 397 और 400 की भागतः सम्मिलित सीमा बनाती है।

छ--अ रेखा प्लॉट सं. 397 से होकर जाती है।

अ--घ--अ रेखा प्लॉट सं. 397 और 398 की भागतः सम्मिलित सीमा बनाती है।

अ--अ रेखा प्लॉट सं. 397 से होकर जाती है।

अ--अ--ट रेखा प्लॉट सं. 397 और 382, 397 और 383, 397 और 385, 393 और 385, 393 और 386 393 और 391 की भागतः सम्मिलित सीमा बनाती है।

ट--ठ रेखा प्लॉट सं. 393 से होकर जाती है।

ठ--अ--अ¹ रेखा प्लॉट सं. 393, 394 और 396 से होकर

अ--अ प्लॉट सं. 396 और 397, 396 और 428, 396 और 244, 394 और 244, 394 और 247 की भागतः सम्मिलित सीमाओं के साथ-साथ जाती है।

अ--अ रेखा प्लॉट सं. 247 से होकर जाती है।

अ--अ--त रेखा, प्लॉट सं. 246 और 247 की भागतः सम्मिलित सीमा बनाती है।

त--अ रेखा प्लॉट सं. 247 से होकर जाती है।

अ--अ--अ रेखा, प्लॉट सं. 245 और 247, 245 और 244 की भागतः सम्मिलित सीमा बनाती है।

अ--क रेखा प्लॉट सं. 244 से होकर जाती है और आरंभिक बिन्दु "क" पर मिलती है।

ब्लॉक--अ सिरका ग्राम में अर्जित किए जाने वाले प्लॉट सं. 449

सीमा वर्णन :

अ--अ--अ रेखा प्लॉट सं. 449 और 427, 449 और 1024, 449 और 431 की भागतः सम्मिलित सीमा बनाती है।

अ--अ--अ रेखा सिरका ग्राम में प्लॉट सं. 449 और 444, 449 और 448, 449 और 454, 448 और 427 की भागतः सम्मिलित सीमा बनाती है और बिन्दु "अ" पर मिलती है।

ब्लॉक--ग सिरका ग्राम में अर्जित किए जाने वाले प्लॉट सं. 442 (भाग)

सीमा वर्णन :

अ--अ रेखा प्लॉट सं. 442 और 444 की भागतः सम्मिलित सीमा बनाती है।

अ--अ रेखा प्लॉट सं. 442 से होकर जाती है।

अ--अ रेखा ग्राम सिरका में प्लॉट सं. 442 और 454 की भागतः सीमा के साथ बनाती है और बिन्दु "अ" पर मिलती है।

ब्लॉक--अ सिरका ग्राम में अर्जित किए जाने वाले प्लॉट सं. 430 (भाग), 437(भाग), 442(भाग), 472, 475 485, 488(भाग), 498(भाग), 509, 510

सीमा वर्णन :

अ--अ रेखा प्लॉट सं. 488 से होकर जाती है।

अ--अ रेखा प्लॉट सं. 488 और 460 की भागतः सम्मिलित सीमा के साथ, प्लॉट सं. 488 और 465, 488 और 467, 488 और 468 442, और 467 की भागतः सम्मिलित सीमा बनाती है।

प--फ रेखा प्लॉट सं. 442 से होकर जाती है।
 फ--व रेखा प्लॉट सं. 442 और 441 की भागतः सम्मिलित सीमा के साथ बनती है।

ब--घ--म रेखा प्लॉट सं. 442 और 443, 442 और 440, 442 और 441, 443 और 469, 488 और 469, 488 और 470, 488 और 437, 485 और 467, 472 और 487, 472 और 470, 472 और 471, 437 और 471, 437 और 439, 437 और 438, 437 और 435, 437 और 436, 435 और 437 437 और 433 की भागतः सम्मिलित सीमा के साथ बनती है।

म--य रेखा प्लॉट सं. 437 और 430 से होकर जाती है।

य--क¹ रेखा, दानोदर नदी की भागतः उत्तरी सीमा के साथ जाती है।

क¹--ख¹--ग¹ रेखा प्लॉट सं. 510 और 515 की भागतः सम्मिलित सीमा के साथ, प्लॉट सं. 510 और 511, 510 और 508, 509 और 508, 430 और 508, 437 और 508, 472 और 503, 499 और 503, 499 और 502, 499 और 500 की भागतः सम्मिलित सीमा के साथ बनती है और बिन्दु "ग" पर मिलती है।

ग¹--घ¹ रेखा प्लॉट सं. 499 से होकर जाती है।

घ--ङ--च¹ रेखा प्लॉट सं. 499 और 573 की भागतः सम्मिलित सीमा के साथ प्लॉट सं. 499 और 484, 499 और 483, 485 और 483, 485 और 484, 485 और 486, 488 और 486, 488 और 484, 488 और 489, 488 और 491 की भागतः सम्मिलित सीमा के साथ बनती है और प्रारंभिक बिन्दु "ब" पर मिलती है।

ब्लॉक--क :--ग्राम सिरका में अर्जित किए जाने वाले प्लॉट सं. : 512 (भाग), 575 (भाग)

सीमा वर्णन

ट¹--ठ¹ रेखा प्लॉट सं. 512 और 508, 512 और 511, 515 और 511 की भागतः सम्मिलित सीमा के साथ बनती है।

ठ¹--ड¹ रेखा प्लॉट सं. 515 और 512 से होकर जाती है।

ड--ढ रेखा प्लॉट सं. 512 और 521 की भागतः सम्मिलित सीमा के साथ बनती है और बिन्दु "ठ" पर मिलती है।

ब्लॉक--ख सिरका ग्राम में अर्जित किए जाने वाले प्लॉट सं. 498 (भाग)

सीमा वर्णन:

ड--ण रेखा प्लॉट सं. 493 और 454, 493 और 455 की भागतः सम्मिलित सीमा और प्लॉट सं. 493 और 488 की भागतः सम्मिलित सीमा के साथ बनती है।

ण--त--ड रेखा प्लॉट सं. 493 से होकर जाती है और बिन्दु "ड" पर मिलती है।

ब्लॉक--छ

सिरका ग्राम में अर्जित किए जाने वाले प्लॉट सं. 498 (भाग)

सीमा वर्णन:--

च¹--द¹ रेखा प्लॉट सं. 493 और 407, 493 और 411 की भागतः सम्मिलित सीमा के साथ बनती है।

द--ध रेखा प्लॉट सं. 493 से होकर जाती है।

ब--न रेखा प्लॉट सं. 493 और 454 की भागतः सम्मिलित सीमा के साथ बनती है।

न--प रेखा प्लॉट सं. 493 से होकर जाती है और प्रारंभिक बिन्दु "ब" पर मिलती है।

प्रत्युत्पत्ती-II

(उस भूमि को दशति रूप जहां खनन, खदान, घोर करने, खुदाई करने और खोजने, उन्हें प्राप्त करने, उन पर कार्य करने और खनिजों को ले जाने के अधिकार अर्जित किए जाने हैं।)

खनन अधिकार

ब्लॉक	ग्राम	थाना	थाना सं.	जिला	क्षेत्र	टिप्पणियाँ
ज	सिरका	मांड़	136	हजारी	0.35	भाग
झ	"	"	"	भाग	1.75	"
ञ	"	"	"	"	17.00	"
ट	"	"	"	"	2.00	"
ठ	"	"	"	"	0.10	"
ड	"	"	"	"	0.70	"
ढ	"	"	"	"	48.78	"
ण	"	"	"	"	4.25	"
त	"	"	"	"	20.60	"
कुल क्षेत्र					95.63 एकड़ (लगभग)	
या					38.70 हेक्टर (लगभग)	

ब्लॉक सं. : ज

सिरका ग्राम में अर्जित किए जाने वाले प्लॉट सं. 246 (भाग)

सीमा वर्णन:

त--प--ण रेखा प्लॉट सं. 246 और 247 की भागतः सम्मिलित सीमा के साथ बनती है।

ण--त रेखा प्लॉट सं. 246 से होकर जाती है और बिन्दु "त" पर मिलती है।

ब्लॉक--झ सिरका ग्राम में अर्जित किए जाने वाले प्लॉट सं. 245 (भाग)

सीमा वर्णन

द--फ--घ रेखा प्लॉट सं. 245 और 244, 245 और 247 की भागतः सम्मिलित सीमा के साथ बनती है।

घ--ध रेखा प्लॉट सं. 245 से होकर जाती है और बिन्दु "द" पर मिलती है।

ब्लॉक--झ : सिरका ग्राम में अर्जित किए जाने वाले प्लॉट सं. : 393(भाग), 394(भाग), 395 और 396(भाग)

सीमा वर्णन :

क-क ¹ -क ²	रेखा प्लाट संख्या 394 और 247 की भागतः सम्मिलित सीमा के साथ, प्लाट संख्या 394, और 244, 396 और 244, 396 और 428 की भागतः सम्मिलित सीमा के साथ प्लाट सं. 396 और 397 की भागतः सम्मिलित सीमा के साथ बनती है।	सम्मिलित सीमा के साथ, प्लाट सं. 433 से होकर प्लाट सं. 416 और 42 की भागतः सम्मिलित सीमा बनती है, प्लाट सं. 422 और 397, 423 और 397 की भागतः सम्मिलित सीमा के साथ प्लाट सं. 423 से होकर बनती है, प्लाट सं. 423 और 397, 423 और 424, 420 और 424, 411 और 424, 425 और 424, 426 और 424, 426 और 428, 427 और 244, 1024 और 244, 1024 437 और 431 और 437 की भागतः सम्मिलित सीमा के साथ बनती है।	
म-क-ठ	रेखा प्लाट सं. 396, 394 और 393 से होकर जाती है।	य-ग-ग य-ग-ग	रेखा प्लाट सं. 427 और 430 से होकर जाती है। रेखा दोपहर नदी की भागतः उसी सीमा के साथ-साथ जाती है।
ठ-ठ	रेखा प्लाट सं. 393 और 394 से होकर आती है और प्रारंभिक बिन्दु "ड" पर मिलती है।	य-ग-म	रेखा प्लाट सं. 430 और 437 से होकर जाती है
ब्लॉक-“ट”	सिरका ग्राम में अर्जित किए जाने वाले प्लाट सं. 382 (भाग), 383(भाग), 384, 385, 386, 387 और 388(भाग)	म-ग-ग-क-प-न-घ	रेखाएं प्लाट सं. 433 और 431, 435 और 437, 438 और 437, 435 और 437, 439 और 437, 471 और 437, 471 और 472 470 और 472, 437 और 472, 487 और 488, 488 और 487, 488 और 470, 488 और 469, 442, और 469, 442 और 441, 442 और 440 443 और 442, 444 और 442 की भागतः सम्मिलित सीमा के साथ प्लाट सं. 488 से होकर बनती है प्लाट सं. 442 और 467, 442 और 463, 468 और 488, 463 और 488, 460 और 488 प्लाट सं. 458 और 488 की भागतः सम्मिलित सीमा के साथ प्लाट सं. 489 से होकर बनती है।
सीमा वर्णन :		य-क-ड-घ	रेखा प्लाट सं. 491 और 488 की भागतः सम्मिलित सीमा के साथ, प्लाट सं. 490 और 488, 489 और 483, 484 और 483, 486 और 486, 486 और 485, 484 और 485, 483 और 485, 483 और 499, 484 और 499, 578 और 499 (सबक) की भागतः सम्मिलित सीमा के साथ बनती है।
द-म-म	रेखाएं प्लाट सं. 387 और 393, 386 और 393, 385 और 393, 385 और 397, 383 और 397, 382 और 397 की सम्मिलित सीमा बनाती है।	य ¹ -य ¹ -य ¹ -य ¹ -य ¹	रेखाएं प्लाट सं. 578, 490, 491, 493 से होकर जाती हैं, प्लाट सं. 488 और 493, 455 और 493, 454 और 493 की भागतः सम्मिलित सीमा के साथ प्लाट सं. 454 से होकर बनती है, प्लाट सं. 454 और 493 की भागतः सम्मिलित सीमा के साथ प्लाट सं. 493 से होकर बनती है, प्लाट सं. 411 और 493 की भागतः सम्मिलित सीमा के साथ बनती है।
स-ट	रेखा प्लाट सं. 382, 383, 388 से होकर जाती है और प्लाट सं. 387 और 391 की भागतः सम्मिलित सीमा बनाती है तथा प्रारंभिक बिन्दु “ट” पर मिलती है।	य-क	रेखा प्लाट सं. 409, 409, 410, 416, 414 से होकर जाती है और प्रारंभिक बिन्दु “न” पर मिलती है।
ब्लॉक : ठ	सिरका ग्राम में अर्जित किए जाने वाले प्लाट सं. 398(भाग)	टिप्पण :	जिसके अन्तर्गत य-क-य-क द्वारा चिरा दुष्प्रा भाग नहीं जाता है।
सीमा वर्णन :		ब्लॉक :	सिरका ग्राम में अर्जित किए जाने वाले प्लाट सं. : 473, 474, 476 में 482,
त-य ¹ -ज	रेखाएं प्लाट सं. 398 और 397 की भागतः सम्मिलित सीमा के साथ बनती है।	सीमा वर्णन :	रेखाएं प्लाट सं. 482, और 499, 482 और 485, 478 और 485, 477 और 485, 473 और 472, 476 और 473, 476 और 472, 478 और 472, 479 और 472, 479 और 499, 478 और 499 की भागतः सम्मिलित सीमा के साथ बनाती है और बिन्दु “अ” पर मिलती है।
ज-ह	रेखा प्लाट सं. 398 से होकर जाती है और प्रारंभिक बिन्दु “ह” पर मिलती है।	अ-ह-ग	
ब्लॉक :	सिरका ग्राम में अर्जित किए जाने वाले प्लाट सं. : 400, 401(भाग)		
सीमा वर्णन :			
छ-क ² -घ	रेखाएं प्लाट सं. 400 और 397, 400 और 354 401 और 354 की भागतः सम्मिलित सीमा के साथ बनती है।		
घ-छ	रेखा प्लाट सं. 401 से होकर जाती है और बिन्दु “छ” पर मिलती है।		
ब्लॉक-ड	सिरका ग्राम में अर्जित किए जाने वाले प्लाट सं. : 402, 407(भाग), 409(भाग), 410(भाग), 411 412, 413, 414(भाग), 415, 416(भाग), 417 से 421, 422(भाग), 423(भाग), 425, 426, 427, 430(भाग), 431 से 436, 437(भाग), 438 से 441, 442(भाग), 443 से 448, 450 से 453, 454(भाग), 455 से 471, 483, 484 486, 487, 488(भाग), 489, 490(भाग), 491(भाग), 493(भाग), 518(भाग) और 1024		
सीमा वर्णन :			
क-घ	रेखा प्लाट सं. 414 और 354, 402 और 354, 414 और 422, 414 और 354 की भागतः		

पं—ज रेखा प्लाट सं. 481 और 499, 478 और 499, 482 और 499 की भागत: सम्मिलित सीमा के साथ बनती है और बिन्दु "ज" पर मिलती है।

ब्लॉक—त

सिरका ग्राम में प्रजित किए जाने वाले प्लाट सं. : 500(भाग), 501, 502, 503, 504 (भाग), 505(भाग), 506(भाग), 507(भाग), 508, 511(भाग), 515(भाग), 521(भाग), 567(भाग), और 575(भाग)।

सीमा वर्णन :

ग¹—ख¹—क¹ रेखा प्लाट सं. 500 और 499, 502 और 499, 503 और 472, 508 और 472, 508 और 437, 508 और 430, 508 और 509, 508 और 515, 511 और 510, 515 और 510 की भागत: सम्मिलित सीमा के साथ बनती है और बिन्दु "क" पर मिलती है।

क¹—ख² रेखा दामोदर नदी की भागत: उत्तरी सीमा के साथ-साथ जाती है।

ख²—ठ¹—ट—रेखाएं प्लाट सं. 515 और 511 से होकर जाती हैं, प्लाट सं. 511 और 515 की भागत: सम्मिलित सीमा के साथ प्लाट सं. 511 और 512, 508 और 512, 521 और 512, की भागत: सम्मिलित सीमा के साथ, प्लाट सं. 521, 407, 520, 505, 504, 487 से होकर प्लाट सं. 575 और 567, 575 और 588 की भागत: सम्मिलित सीमा के साथ बनती है और बिन्दु "ग²" पर मिलती है।

ग²—ग¹ रेखा प्लाट सं. 575 और 500 से होकर जाती है और प्रारंभिक बिन्दु "ग¹" पर मिलती है।

[सं. 43015/11/86-सी. ए./एनएसडब्ल्यू]]

जी.बी. राज, प्रवरसचिव

MINISTRY OF ENERGY
(Department of Coal)

New Delhi, the 20th September, 1988

S.O. 3076.—Whereas by the notification of the Government of India in the Ministry of Energy (Department of Coal) No. S.O. 3294 dated the 20th September, 1986 under sub-section (1) of section 4 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957), the Central Government gave notice of its intention to prospect for coal in land measuring 159.90 acres (approximately) or 64.34 hectares (approximately) of the land in the locality specified in the Schedule appended to that notification;

And, whereas the Central Government is satisfied that Coal is obtainable in the said land;

Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 7 of the said Act, the Central Government hereby gives notice of its intention to acquire:—

(a) the land measuring 63.37 acres (approximately) or 25.64 hectares (approximately) described in Schedule 'I' appended hereto; and

(b) the rights to mine, quarry, bore, dig and search for, win, work and carry away minerals in the land measuring 95.63 acres (approximately) or 38.70 hectares (approximately) described in Schedule 'II' appended hereto.

Note 1.—The plan of the area covered by this notification may be inspected in the office of the Deputy Commissioner, Hazaribagh (Bihar) or in the office of the Coal Controller, 1, Council House Street, Calcutta or in the office of the Central Coalfields Limited (Revenue Section) Darbhanga House, Ranchi (Bihar).

Note 2.—Attention is hereby invited to the provisions of section 8 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957), which provides as follows:—

Objection to acquisition:—

"8. (1) Any person interested in any land in respect of which a notification under section 7 has been issued may, within thirty days of the issue of the notification, object to the acquisition of the whole or any part of the land or of any rights in or over such land.

Explanation:—It shall not be an objection within the meaning of this section for any person to say that he himself desires to undertake mining operations in the land for the production of coal and that such operations should not be undertaken by the Central Government or by any other person.

(2) Every objection under sub-section (1) shall be made to the competent authority in writing, and the competent authority shall give the objector an opportunity of being heard either in person or by a legal practitioner and shall, after hearing all such objections and after making such further inquiry if any, as he thinks necessary, either make a report in respect of the land which has been notified under such sub-section (1) of Section 7 or of rights in or over such land, or make different reports in respect of different parcels of such land or of rights in or over such land, to the Central Government, containing his recommendations on the objections, together with the record of the proceedings held by him, for the decision of that Government.

(3) For the purposes of this section, a person shall be deemed to be interested in land who would be entitled to claim an interest in compensation if the land or any rights in or over such land were acquired under this Act.

Note 2.—The Coal Controller, 1, Council House Street, Calcutta has been appointed by the Central Government as competent authority under the Act.

SIRKA EXTENSION VI
SOUTH KARANPURA COALFIELD
SCHEDULE I

DrS. No. Rev/66/87

Dated 19-9-87.

(Showing land to be acquired)

ALL RIGHTS

Block	Village	Thana	Thana number	District	Area	Remarks
A	Sirka	Mandu	136	Hazaribagh	38.50	Part
B	"	"	"	"	0.60	"
C	"	"	"	"	0.04	"
D	"	"	"	"	22.75	"
E	"	"	"	"	1.25	"
F	"	"	"	"	0.13	"
G	"	"	"	"	0.10	"
Total area :—					63.37 acres	(Approximately)
or					25.64 Hectares	(,,)

Block 'A' :—

Plot numbers to be acquired in village Sirka :—244 (Part), 247 (Part), 354 (Part), 393 (Part), 394 (Part), 396 (Part), 397 (Part), 422 (Part), 423 (Part), 424, 428, 430 (Part), and 437 (Part).

Boundary description :—

A—B	line passes through plot number 244.
B—C	line passes along part northern boundary of Demoder River.
C—D	line passes through plot numbers 430 and 437.
D—E	line forms with part common boundary of plot numbers 437 & 421, common boundary with 437 & 1024, 244 & 1024, 244 & 427, 428 & 426, 424 & 426, 424 & 425, 424 & 411, 424 & 420, 424 & 423, 397 & 423, through plot number 423, common boundary with 397 & 422, through plot number 422, common boundary with 422 & 414, 354 & 414, 354 & 402.
E—F	line passes through plot number 354.
F—A—G	line forms part common boundary of plot numbers 354 & 401, 354 & 400, 397 & 400.
G—H	line passes through plot number 397.
H—Z—I	lines form part common boundary of plot numbers 397 & 398.
I—J	line passes through plot number 397.
J—Y—K	lines form part common boundary of plot numbers 397 & 382, 397 & 382, 397 & 385, 393 & 385, 393 & 386, 393 & 391.
K—L	line passes through plot number 393.
L—M—X—W—N	lines pass through plot numbers 393, 394 and 396, part common boundary with plot numbers 396 & 397, 396 & 428, 396 & 244, 394 & 244, 394 & 247.
N—O	line passes through plot number 247.
O—U—P	lines form part common boundary of plot numbers 246 & 247.
P—Q	line passes through plot number 247.
Q—V—R	lines form part common boundary of plot numbers 245 & 247, 245 & 244.
R—A	line passes through plot number 244 and meets at starting point 'A'.

Block—B :—

Plot numbers to be acquired in village Sirka :—449.

Boundary description :—

S—T—U	lines form with common boundary of plot numbers 449 & 427, 449 & 1024, 449 & 431.
U—V—S	lines form with common boundary of plot numbers 449 & 444, 449 & 448, 449 & 454, 449 & 427 in village Sirka and meets at 'S'.

Block—'C' :—

Plot number to be acquired in village Sirka—442 (Part).

Boundary description :—

W—X	line forms with part common boundary of plot numbers 442 & 444.
X—Y	line passes through plot number 442.
Y—W	line forms with part common boundary of plot numbers 442 & 445 in village Sirka and meets at point 'W'.

Block—'D' :—

Plot numbers to be acquired in village Sirka—420 (Part), 437 (Part), 442 (Part), 472, 475, 485, 488 (Part), 499 (Part), 509, 510.

Boundary description :

S—T	line passes through plot number 488.
T—U	line forms with part common boundary of plot numbers 488 & 460, common boundary with plot numbers 488 & 465, 488 & 467, 488 & 468, 442 & 468, 442 & 467.
U—V	line passes through plot number 442.
V—W	line forms with part common boundary of plot numbers 442 & 444.
W—X—Y	lines form with part common boundary of plot numbers 442 and 443, 442 & 440, 442 & 441, 442 & 469, 488 & 469, 488 & 470, 488 & 487, 485 & 487, 472 & 487, 472 & 470, 472 & 471, 437 & 471, 437 & 439, 437 & 438, 437 & 435, 437 & 436, 435 & 437, 437 & 433.
Y—Z	line passes through plot numbers 437 & 430.
Z—A'	line passes along part a northern boundary of River Damodar.
A'—B'—C'	lines forms with part common boundary of plot numbers 510 & 515, common boundary with plot numbers 510 & 511, 510 & 508, 509 & 508, 430 & 508, 437 & 508, 472 & 503, 499 & 503, 499 & 502, 499 & 500 and meets at point 'C'.
C'—D'	line passes through plot number 499.
D'—E'—S'	lines forms with part common boundary of plot numbers 499 & 578, common boundary with plot numbers 499 & 484, 499 & 483, 485 & 483, 485 & 484, 485 & 486, 488 & 486, 488 & 484, 488 & 489, 488 & 491, and meets at starting point 'S'.

Block—'E'

Plot numbers to be acquired in village Sirka :—512 (Part), 515 (Part).

Boundary description :—

K'—L'	line forms with common boundary of plot numbers 512 & 508, 512 & 511, 515 & 511.
L'—M'	line passes through plot numbers 515 and 512.
M'—K'	line forms with part common boundary of plot numbers 512 & 521 and meets at point 'K'.

Block—'F'

Plot number to be acquired in village Sirka :—493 (Part).

Boundary description :—

N'—O'	line forms with part common boundary of plot numbers 493 & 454, 493 & 455 and with part boundary of plot numbers 493 & 488.
O'—P'—N'	lines pass through plot number 493 and meets at point 'N'.

Block—'G'

Plot number to be acquired in village Sirka—493 (Part).

Boundary description :—

Q'—R'	line forms with part common boundary of plot numbers 493 and 407, 493 & 411.
R'—S'	line passes through plot number 493.
S'—T'	line forms with part common boundary of plot numbers 493 and 454.
T'—Q'	line passes through plot number 493 and meets at starting point 'Q'.

SCHEDULE—II

(Showing land where rights to mine, quarry, bore, dig & search for, win, work & carry away minerals are to be acquired).

MINING RIGHTS

Block	Village	Thana	Thana number	District	Area	Remarks
H	Sirka	Mandu	136	Hazaribagh	0.35	Part
I	"	"	"	"	1.75	"
J	"	"	"	"	17.00	"
K	"	"	"	"	2.10	"
L	"	"	"	"	0.10	"
M	"	"	"	"	0.70	"
N	"	"	"	"	48.78	"
O	"	"	"	"	4.25	"
P	"	"	"	"	20.60	"
Total area —					95.63 acres (approximately)	
					or	
					38.70 hectares (. .)	

Block —'H'

Plot number to be acquired in village Sirka—246 (Part).

Boundary description—

P—U'—O lines form with part common boundary of plot numbers 246 & 247.

O—P line passes through plot number 246 and meets at point 'P'.

Block—'I'

Plot number to be acquired in village Sirka—2450(Part).

Boundary description :

R—V'—Q lines form with part common boundary of plot numbers 245 & 244, 245 & 247.

Q—R line passes through plot number 245 and meets at point 'R'.

Block—'J'

Plot numbers to be acquired in village Sirka—393(Part), 394(Part), 395 and 396(Part).

Boundary description :

N—W'—X' lines form part common boundary of plot numbers 394 & 247, common boundary with plot numbers 394 & 244, 396 & 244, 396 & 428, part common boundary of plot numbers 396 & 397.

X'—M—L lines pass through plot numbers 396, 394 and 393.

L—N line passes through plot numbers 393 and 394 and meets at starting point 'N'.

Block—'K'

Plot numbers to be acquired in village Sirka:—382(Part), 383(Part), 384, 385, 386, 387 and 388(Part).

Boundary description :

K—Y'—J lines form common boundary of plot numbers 387 & 393, 386 & 393, 385 & 393, 385 & 397, 383 & 397, 382 & 397.

J—K line passes through plot numbers 382, 383, 388 and forms with common boundary of plot numbers 387 & 391 and meets at starting point 'K'.

Block—'L'

Plot number to be acquired in village Sirka—398 (Part).

Boundary description :—

L—Z'—H lines form with common boundary of plot number 398 & 397.

H—I line passes through plot number 398 and meets at starting point 'I'.

Block—'M'

Plot numbers to be acquired in village Sirka—400, 401(Part),

Boundary description :—

- G—A—F lines form with part common boundary of plot numbers 400 & 397, 400 & 354, 401 & 354.
 F—G line passes through plot number 401 and meets at point 'G'.

Block—'N'

Plot numbers to be acquired in village Sirka :—402, 407(Part), 409(Part), 410(Part), 411, 412, 413, 414(Part), 415, 416(Part), 417 to 421, 422(Part), 44423(Part), 425, 426, 427, 430(Part), 431 to 436, 437(Part), 438 to 441, 442(Part), 443 to 448, 450 to 453, 454(Part), 455 to 471, 483, 484, 486, 487, 488(Part), 489, 490(Part), 491(P) 493(Part), 518(Part) and 1024.

Boundary description :—

- E—D line forms with part common boundary of plot numbers 414 & 354, 402 & 354, 414 & 422, 414 & 354, part common boundary of plot numbers 416 & 42, through plot number 422, forms with part common boundary of plot numbers 422 & 397, 423 & 397, through plot number 423, forms common boundary of plot numbers 23 & 397, 423, & 424, 420 & 424, 411 & 424, 425 & 424, 426 & 424, 426 & 428, 427 & 428, 427 & 244, 1024 & 244, 1024 & 437 and 431 & 347.
- D—C line passes through plot numbers 437 and 430.
- C—Z line passes along part northern boundary of Damodar river.
- Z—Y line passes through plot numbers 430 and 437.
- Y—X—W—V—U—T—S lines form with part common boundary of plot number 433 & 437, 435 & 437, 436 & 437, 435 & 437, 438 & 437, 439 & 437, 471 & 437, 471 & 472, 470 & 472, 487 & 472, 487 & 485, 488 & 487, 488 & 470, 488 & 469, 442 & 469, 442 & 441, 442 & 444, 443 & 442, 444 & 442, through plot number 442, forms with common boundary of plot numbers 442, & 467, 442 & 468, 468 & 488, 467 & 488, 465 & 488, 460 & 488 through plot number 488, forms with common boundary of plot number 458 & 488, through plot number 488.
- S—E'—D' lines form with part common boundary of plot numbers 491 & 488, common boundary with 490 & 488, 489 & 488, 484 & 488, 486 & 488, 486 & 485, 484 & 485, 483 & 485, 483 & 499, 484 & 499, 578 & 499 (Road).
- D'—P'—O'—N'—T'—S'—R'—Q' lines pass through plot numbers 578, 490, 491, 493, forms with part common boundary of plot numbers 488 & 493, 455 & 493, 454 & 493, through plot number 454, forms with part common boundary of plot numbers 454 & 493, through plot number 493, forms with part common boundary of plot number 411 & 493.
- Q'—E line passes through plot numbers 407, 409, 410, 416, 414 and meets at starting point 'E'.
 Note :—Excluding the portion surrounded by S—E—U—V.

Block—'O'

Plot number to be acquired in village Sirka—473, 474, 476 to 482.

Boundary description :—

- H'—I'—J' lines form with common boundary of plot numbers 482 & 499, 482 & 485, 478 & 483, 477 & 485, 473 & 472, 476 & 475, 476 & 472, 478 & 472, 479 & 472, 479 & 499, 478 & 499 and meets at point 'J'.
- J'—H' line forms with common boundary of plot numbers 481 & 499, 478 & 499, 482 & 499 and meets at point 'H'.

Block—'P'

Plot number to be acquired in village Sirka—500(Part), 501, 502, 503, 504(Part), 505(Part), 506(Part), 507(Part), 508, 511 (Part), 515(Part), 521(Part) 567(Part), and 575(Part).

Boundary description :—

- C'—B'—A' lines form with common boundary of plot numbers 500 & 499, 502 & 499, 503 & 499, 503 and 472, 508 & 472, 508 & 437, 508 & 430, 508 & 509, 508 & 510, 511 & 510, 515 & 510 and meets at point 'A'.
- A'—D' line passes along part northern boundary of Damodar river.
- B'—L'—K'—M'—C' lines pass through plot numbers 515 and 511, forms with part common boundary of plot numbers 511 & 515, common boundary with plot numbers 511 & 512, 508 & 512, 521 & 512, through plot numbers 521, 507, 500, 505, 504, 567, forms with common boundary of plot numbers 575 & 567, 575 & 568 and meets at point C'.
- C—C' line passes through plot numbers 575 and 500 and meets at starting point 'C'.

स्वास्थ्य और परिवार कल्याण विभाग

नई दिल्ली, 27 सितम्बर, 1988

क्र.सं. 3077.—केन्द्रीय सरकार, भारत आयुर्विज्ञान परिषद अधिनियम, 1956 (1956 का 102) की धारा 11 की उपधारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करने हुए, भारतीय आयुर्विज्ञान परिषद में परामर्श करने के पश्चात्, उक्त अधिनियम की प्रथम अनुसूची का निम्नलिखित और संशोधन करती है, अर्थात्—

उक्त अनुसूची में,

- (i) "अलीगढ़ मुस्लिम विश्वविद्यालय" शीर्ष के अर्थात्, "डाक्टर आफ मेडिसिन (सोशल एण्ड प्रिवेंटिव मेडिसिन) एम.डी. (सो. एण्ड प्रिव. मेडि.)" प्रविष्टि के पश्चात् निम्नलिखित प्रविष्टि जोड़कर निम्नलिखित शीर्ष अर्थात्—

"मास्टर आफ सर्जरी (एनेस्थीसियोलॉजी)

.....एम.ए. (एनेस्थीसियोलॉजी)

टिप्पण: यह अर्हता जब मान्यता प्राप्त अर्हता होगी, जब यह 23-11-1984 की या उसके पहले प्रदान की गई हो।

डाक्टर आफ मेडिसिन (एनेस्थीसियोलॉजी)

.....एम.डी. (एनेस्थीसियोलॉजी)

टिप्पण: यह अर्हता जब मान्यता प्राप्त अर्हता होगी, जब यह 24-11-1984 के पश्चात् प्रदान की गई हो।

- (ii) "अलीगढ़ मुस्लिम विश्वविद्यालय" शीर्ष के अर्थात्, "डाक्टर आफ मेडिसिन (रेडियोलॉजी).....एम.डी. (रेडियोलॉजी)" प्रविष्टि के पश्चात् निम्नलिखित प्रविष्टि जोड़कर निम्नलिखित शीर्ष अर्थात्—

"डाक्टर आफ मेडिसिन (एनेस्थीसियोलॉजी)

.....एम.डी. (एनेस्थीसियोलॉजी)

टिप्पण: यह अर्हता जब मान्यता प्राप्त अर्हता होगी, जब यह 1-6-1978 की या उसके पश्चात् प्रदान की गई हो।

[सं. वी. 11015/15/86 एन.ई. (ए)]

आर. श्रीनिवासन, अ. स. स. स.

MINISTRY OF HEALTH AND FAMILY WELFARE

New Delhi, the 27th September, 1988

S.O. 3077.—In exercise of the powers conferred by sub-section (2) of section 11 of the Indian Medical Council Act, 1956 (102 of 1956), the Central Government after consulting the Medical Council of India, hereby makes the following further amendments in the First Schedule to the said Act, namely:—

In the said Schedule—

- (i) under the heading "Aligarh Muslim University", after the entry "Doctor of Medicine (Soc. & Prev. Med.)...M.D. (Sec. & Prev. Med.)", the following entries shall be inserted, namely:—

Master of Surgery (Anaesthesiology).....M.S. (Anaes.)
2491 GI/88—6

Note :—This qualification shall be a recognised qualification when granted on or before 23-11-1984.

Doctor of Medicine (Anaesthesiology)...M.D. (Anaes.)

Note :—This qualification shall be a recognised qualification when granted after 24-11-1984.

- (ii) under the heading "University of Agra", after the entry "Doctor of Medicine (Radiology).....M.D. (Radiology)", the following entry shall be inserted, namely :—

"Doctor of Medicine (Anaesthesiology).....M.D. (Anaes.)"

Note :—This qualification shall be a recognised qualification when granted on or after 1-6-1978.

[No. V. 11015/15/86-ME(P)]

R. SRINIVASAN, Under Secy.

मानव संसाधन विकास विभाग

(शिक्षा विभाग)

नई दिल्ली, 19 सितम्बर 1988

क्र. सं. 3078.—सार्वजनिक स्थान (अनाधिकृत कब्जा हटाने) अधिनियम, 1971 के खंड 3 (1971 का 40) की द्वारा प्रदत्त शक्तियों का प्रयोग करने हुए और भारत सरकार के राजपत्र के भाग II खंड 3, उपखंड (ii) में दिनांक 15 अप्रैल, 1972 को प्रकाशित इसकी अधिसूचना संख्या एस.ओ. 992 को संशोधित करने हुए केन्द्रीय सरकार ने वे सारणी के कालम (1) में उपस्थित अधिकारियों को सरकार के राजपत्र के अंतर्गत अधिकारी होने के नाते, उक्त नियम के प्रयोजनार्थ गणना अधिकारी के रूप में नियुक्त करती है। वे उक्त सारणी के कालम (2) में विनिर्दिष्ट सार्वजनिक स्थान के बारे में उनके अपने अपने क्षेत्राधिकार की स्थानीय सीमाओं के अंतर्गत उक्त अधिनियम द्वारा अथवा के अंतर्गत सम्पदा अधिकारी को दी गई शक्तियों का प्रयोग करेंगे तथा अपनी इच्छा पूर्ण करेंगे।

सारणी

(1)	(2)
अधिकारी का पदनाम	सार्वजनिक स्थान को अग्रे या क्षेत्राधिकार को स्थायी सीमाएं
अधीक्षक इंजीनियर/कार्यकारी इंजीनियर/इंजीनियर 2/सहायक इंजीनियर/उप रजिस्ट्रार/प्रशासनिक अधिकारी/विशेष अधिकारी	राष्ट्रीय प्रयोगिकी संस्था, खंडापुर से सम्बन्धित अथवा लीज पर ली गई अथवा उसके द्वारा अथवा उनकी ओर से मांगी गई भूमि, जो मिदनापुर जिला के 24 परगना अथवा पश्चिम बंगाल सरकार के कलकत्ता के प्रशासनिक विभाग में आते हैं।

[संख्या एफ 20-55-37 टी 6]

आई.बी. संगल, उप शिक्षा सहायक (टी)

MINISTRY OF HUMAN RESOURCE DEVELOPMENT

(Department of Education)

New Delhi, the 19th September, 1988

S.O. 3073 :—In exercise of the powers conferred by section 3 of the Public Premises (Eviction of Un-authorised Occupants) Act, 1971 (40 of 1971) and in modification of its notification no. S.O. 992 dated the 15th April 1972 published in the Gazette of India, Part-II, Section-3, Sub-section (ii) dated the 22nd April, 1972, the Central Government hereby appoints the officers mentioned in column (1) of the Table below, being the officers equivalent to the rank of gazetted officers of Government, to be estate officers for the purpose of the said Act, who shall exercise the powers conferred and perform the duties imposed on estate officers by or under the said Act within the local limits of their respective jurisdiction in respect of the public premises specified in column (2) of the said Table.

TABLE

(1)	(2)
Designation of the Officer	Categories of public premises and local limits of jurisdiction
Superintending Engineer/Executive Engineer/Engineer/Assistant Engineer/Deputy Registrar/Administrative Officer/Special Officer.	Premises belonging to or taken on lease or requisitioned by or on behalf of the Indian Institute of Technology, Kharagpur which are under its administrative control in the District of Midnapore, District 24 Parganas of Calcutta in the State of West Bengal.

[No. F. 20-55/87. T-6]

I. B. SANGAL, Dy. Educational Adviser (T)

रेल मंत्रालय

(रेलवे बोर्ड)

नई दिल्ली, 29 सितम्बर, 1988

आ. प्रा. 3079—राजभाषा (गण के शासकीय प्रयोजनों के लिए प्रयोग) नियम 1976 के नियम 10 के उपनियम (2) और (4) के अनुसरण में रेल मंत्रालय, रेलवे बोर्ड उत्तर रेलवे के दिल्ली मंडल के निम्नलिखित कार्यालयों को, जहाँ के कर्मचारियों ने हिंदी का कार्यभाषक ज्ञान प्राप्त कर लिया है, अधिसूचित करता है,

उत्तर रेलवे

दिल्ली मंडल

1. कुशुनेत्र स्टेशन
2. करनाल स्टेशन
3. सोनीपत स्टेशन
4. समालखा स्टेशन
5. बादली स्टेशन
6. शाहबाद मार्कंडा स्टेशन
7. घाज़िआबाद स्टेशन
8. दिवना स्टेशन
9. घरोडा स्टेशन
10. नीलोखेड़ी स्टेशन
11. अमीन स्टेशन
12. बाबरपुर स्टेशन
13. डोडा खेड़ी स्टेशन
14. शामली स्टेशन
15. बाघपत रोड स्टेशन
16. बारोट स्टेशन

[गं. हिंदी-88/रा.भा. 1/12/6]

एस. एम. वैश, सचिव, रेलवे बोर्ड,
भारत सरकार के पर्यवेक्षण सचिव

MINISTRY OF RAILWAYS

(Railway Board)

New Delhi, the 29th September, 1988

S.O. 3079.—In pursuance of sub-Rule (2) and (4) of Rule 10 of the Official Languages (Use for the official Purposes of the Union) Rules, 1976, the Ministry of Railways (Railway Board), hereby notify the following offices of Delhi Division of Northern Railway, where the staff have acquired the working knowledge of Hindi

NORTHERN RAILWAY

DELHI DIVISION

1. Kurukshetra Station
2. Karnal Station
3. Sonapat Station
4. Samalkha Station
5. Badali Station
6. Shahbad Markanda Station
7. Ghazlabad Station
8. Diwana Station
9. Gharonda Station
10. Nilo Kheri Station
11. Amin Station
12. Babarpur Station
13. Doda Kheri Station
14. Shamali Station
15. Baghpat Road Station
16. Barot Station.

[No. Hindi-88/OI-1/12/6.]

S. M. VAISH, Secy.
Railway Board & Ex-officio Joint Secy.
to the Government of India.

अन्तर्गत

नई दिल्ली, 17 मार्च, 1988

क्र. आ. 3080.—औद्योगिक विवाद कानून, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार, नियोजकों जिसका प्रतिनिधित्व सीमेंट मैन्युफैक्चरर्स एसोसिएशन, बम्बई करती है और उनके कर्मकारों (जिनका प्रतिनिधित्व इंडियन नेशनल सीमेंट एंड एलाइड वर्कर्स फेडरेशन, बम्बई करती है) के बीच, अनुबंध में निर्बिड औद्योगिक विवाद में केन्द्रीय सरकार मध्यस्थता के अन्तर्गत धारा को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-3-88 को प्राप्त हुआ था।

MINISTRY OF LABOUR

New Delhi, the 17th March, 1988

S.O. 3080.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the interim award of the Arbitrators, as shown in the Annexure, in the industrial dispute between the employers represented by Cement Manufacturers' Association, Bombay, and their workmen represented by Indian National Cement & Allied Workers' Federation, Bombay, which was received by the Central Government on the 11th March, 1988.

ANNEXURE**AWARD OF SH. G. RAMANUJAM**

BEFORE SHRI G. RAMANUJAM AND SHRI M. H. DALMIA

(Arbitrators appointed under section 10-A of the Industrial Disputes Act, 1947).

In the matter of Industrial Dispute between :

The workmen in the Cement Industry Represented by :

The Indian National Cement and Allied Workers Federation, Bombay-400004;

AND

The Employers in the Cement Industry,

REPRESENTED BY :

The Cement Manufacturers Association, Bombay 20.

APPEARANCES:

For the Workmen:

For the Management:

Bac C.L. Dalmia	} For	Shri F.N. Kaka	} For CMA
Shri H.N. Trivedi		Shri S.R. Parakh	
Shri N. Nanjappa	} INCA & AWF	Miss Roshini Andhyarajina	} For KCP
Shri D.S. Vasavada and others		NL	

INTERIM AWARD

1. The Indian National Cement and Allied Workers Federation, Bombay, on behalf of the workmen represented by it (herein after called the Federation) and the employers represented by the Cement Manufacturers Association, (hereinafter called the CMA) entered into an agreement on 9th September 1986 agreeing to refer the disputes arising out of their several demands for arbitration by Shri G. Ramanujam and Shri A. L. Kapur.

2. The said agreement was published by the Government in the Gazette of India, part 2 Section 3 Sub Section (ii) dated 8th October 1986. A copy of the said reference to Arbitration is annexed hereto and is marked Annexure (A)

3. The Federation's charter of demands referred to arbitration contains fifty demands, including, among others, increase in basic wages, D. A., H.R.A., and other allowances. The Federation's charter of demand is marked Annexure (B).

4. The CMA's demands were fourteen in number, and included, among others, classification of cement units, productivity studies, special treatment of new units, etc. The CMA's demands are listed in Annexure (C).

5. The Federation submitted in writing its Statement of Justification on 28th November 1986 and simultaneously gave copies to CMA through the Board. The CMA submitted its counter to the Federation's Statement of Justification on 12th March 1987, although it was required to submit its counter much earlier.

6. The CMA also furnished in writing its Statement of Justification on its 14 demands with copies to the Federation and other concerned unions on 31st December, 1986.

7. The Federation submitted its written counter of Statement to the said CMA's Statement of Justification on 19th February 1987.

8. There were some writ petitions before various High Courts preferred by certain unions seeking to prevent the Government from making any notification under Section 10A (3A) of the I.D. Act of 1947.

9. On the basis of the observations of the Karnataka High Court the Labour Ministry of Govt. of India is reported to have called all the concerned Central Organisation of Labour for a discussion and subsequently made the notification under 10A (3A), evidently after satisfying itself that the signatories to the arbitration agreement represent the majority of their respective side. At that stage, writ petitions filed in other High Courts were either pending or were dismissed, but there was no stay in the proceedings of the Board.

10. Demand No. 47 of the Federation's Charter of Demands deals with the demand for Interim Relief. It reads as follows :

"All Employees shall be given Interim Relief of Rs. 800 per month with effect from 1-7-36" i.e., the day following the expiry of the previous Award.

11. The Arbitration Board fixed the Main Special Sitting on 31st August and 1st September 1987 to hear arguments from parties on the Federation's demand for Interim Relief. On 21st August, 1987, the nominee of the CMA, Shri A. L. Kapur resigned on the ground that he was saddled with additional responsibilities in his parent organisation. However, at the request of the co-Arbitrator, Shri G. Ramanujam, Shri A. L. Kapur held his resignation in abeyance and attended the hearing fixed on 31st August and 1st September 1987.

12. The Board at its Sitting in Bombay held on 31st August and 1st September 1987 heard both the parties on the only issue of Interim Relief. After hearing the Federation and such other trade unions who participated in the proceedings, the CMA started its reply. But the CMA could not complete its arguments and the matter remained part-heard at the end of the second day, when further hearing was adjourned to 16th and 17th September, 1987.

13. The same evening Shri A. L. Kapur, the arbitrator nominated by the CMA, stated that he is resigning from the board with immediate effect on the ground that his company is not prepared to spare him any longer, and that a new nominee will be announced soon by the CMA.

14. This resulted in serious discontentment among the workers particularly as it happened when the Interim Relief issue was about to be decided, and the Sittings could not take place to complete the hearing on the appointed date with a new arbitrator. For, with a new arbitrator, the entire arguments by both the sides will have to be repeated, thus, making it time-consuming. The Board was informed by the Federation that all the unions representatives present there had met and decided unanimously on an indefinite strike if the Interim Relief was to be further delayed.

15. The CMA since suggested the appointment of a retired judge, Justice P. S. Malvankar as their new nominee. The Federation attached this nomination on the ground that the nomination of a judge at this stage as an arbitration might tend to make the arbitration most legal-oriented and would rob it of the informal and friendly atmosphere which had prevailed in the earlier two arbitrations. The Federation wanted an effective person from within the industry to be nominated as the CMA's nominee on the Board as in the past, and re-inforced its demand with a notice of strike on this issue to be effective from 12th October, 1987. Shri G. Ramanujam, the nominee of the Federation on the Board resigned his membership of the Board.

16. It is true that the parties have a right to choose their nominees as arbitrators on the Board and a retired judge is not excluded. Nonetheless the CMA was good enough not to make an issue of this and agreed to the suggestion of the Federation and appointed Shri M. H. Dalmia, Chairman of the CMA as its nominee in the vacancy caused by the resignation of Shri A. L. Kapoor.

17. Consequent on this development, Shri G. Ramanujam withdrew his resignation and the Board was reconstituted with Shri M. H. Dalmia and Shri G. Ramanujam as members. On 16th October 1987, the CMA and the Federation jointly signed an Agreement substituting Shri M. H. Dalmia in place of Shri A. L. Kapoor with Shri G. Ramanujam continuing and the same was forwarded to the Labour Ministry on 19th October 1987 for necessary action. The Government of India published the revised agreement on 26th October, 1987 in the Gazette of India.

18. The reconstituted Board met in Bangalore on 13th November, 1987 but did not proceed with its work as it was served an ex-parte ad-interim order of the Karnataka High Court, in writ petition filed by AITUC, directing us that AITUC was not to be asked to appear before the Board to make its submission before the Board and be made bound by its award, and restraining Government of India from passing any order under Section 10A (3A) of the I.D. Act 1947. The Board, by way of abundant caution, waited for a clarification of the said stay order. It was, however not possible to get proper clarification and the Board decided to adjourn the hearing for Interim Relief to 18th and 19th December 1987 at Bombay.

19. It was later learnt that the above restraint order was against binding the AITUC Federation by the arbitrator's award by asking it to take part in the arbitration proceedings. In the order passed on 19th November 1987 clarifying position in regard to the above stay, the Karnataka High Court has said, inter-alia, "if others want to proceed with the same they are free to do so at their risk subject to final orders in this writ petition or other proceedings pending in this Court".

20. Subsequently the other unions CITU and HMS also filed a writ petition in the Karnataka High Court which ended in a similar interim order in their case too i.e. that the proceedings of the Board are stayed so far as it concerned the applicants.

21. In the meanwhile considerable delay had occurred and the Federation pressed its demand for Interim Relief and wanted the Board to hear immediately its demand for Interim Relief.

22. The Board met in Bombay on 18th and 19th December 1987 and heard the representations of the Federation and certain order unions who wanted to be heard. Names of other unions which participated are in Annexure (D). The CMA and some individual employers also addressed the Board in reply on 19th December 1987.

23. Shri C. L. Dudhia appearing for the Federation tried to justify the demand for Interim Relief on two grounds. The first was that considerable time had lapsed since the expiry of the earlier award, which was on 30th June 1986; and the second that it will take some more time for the board to give its final award, particularly in view of the numerous demands referred to it by both the sides for

arbitration. He therefore impressed upon us the urgent need for granting an Interim Relief to the workers.

24. He invited our attention to the Federation's demand on Interim Relief which wanted Rs. 800 per month to be paid to every worker with effect from 1st July 1986. When it was un-realistically high, Shri Dudhia was willing to scale it down to a reasonable level although he would not mention the figure at that stage, which according to him would constitute the reasonable level.

25. He added that in the meanwhile, Government of India had sanctioned ad-hoc payment to the employees in Public Sector Undertakings whose workers were on the Industrial DA of Rs. 1.65 per point, based on an agreement with National Centres of Trade Unions and the Group of Ministers.

26. Shri Dudhia referred to that agreement in the Central Government Public Sector Undertakings, where about 21 lakhs of workers, who were on the same rate of Industrial DA as the cement workers in the country, viz., at Rs. 1.65 per point of the All India Consumer Price Index 1960 were given substantial interim increases, ranging from Rs. 100 to Rs. 420 per month, depending upon the slabs of basic pay of the employees. He also pointed out that employees in the Public Sector Undertakings have got their interim increase with effect from 1-1-86 even where their agreement had not expired on that date. Shri Dudhia therefore tried to modify his demand on Interim Relief so as to be effective from 1-1-86 instead of from 1-7-86.

27. Shri Kaka, the learned Counsel from CMA, pointed out that we have no jurisdiction to go beyond the demand of the Federation and that since the Federation's demand for Interim Relief is from 1-7-86, Shri Dudhia cannot be heard on pushing back that date and claim retrospective effect from 1-1-86.

28. I agree with this contention, and the Interim Relief, if any to be awarded, will have to be with effect from 1-7-86 and not from any earlier date.

29. Shri Dudhia during the course of his argument urged upon us to accept whatever was done in the Public Sector. Shri Kaka, on the other hand, said that even in the past awards, the Board had not strictly followed the Public Sector and that was for very good reasons. Shri Kaka added that while in the case of the Public Sector any loss suffered could be made up by budgetary support, in the case of the cement industry, which is predominantly in the private sector, any loss would go uncompensated and make the unit sick, making the workers to suffer in the process.

30. Shri Kaka pointed out that in the earlier award the Board had stated that the Board was not going to copy exactly the levels of BHEL or SAIL or any other Public Sector rates of annual increase (vide para 114 of the earlier award).

31. Shri Dudhia in reply said that even so, in the matter of DA, the earlier Board of Arbitration gave Rs. 1.30 per point of CPI because the Public Sector gave Rs. 1.30 per point (vide para 120 of the earlier award). He added that the Board had been observed that the parties should await the Govt. decision on the DA Committee recommendations, even though the Board knew that those recommendations were strictly applicable to Public Sector Units only.

32. Shri Dudhia further pointed out that even the CMA (vide para 119 of the earlier award) had submitted that the rate of Rs. 1.30 per point as DA continued to be valid in almost all the Public Sector Undertakings, and therefore there is no justification whatsoever to disturb the said rate in the cement industry alone. The Board had accordingly decided in the earlier award that the existing rate of Rs. 1.30 per point may continue, and that it would advise the parties to await the recommendations of the DA Committee appointed for the Public Sector. Thus Shri Dudhia argued that the earlier Board had accepted the linkage with the Public Sector as a safe method.

33. Shri Kaka in reply pointed out that these observations were not correct. The basic wages in the last award were fixed at a much higher index in the cement industry than

in the Public Sector. If the Board was to follow strictly the Public Sector it should have fixed the basic wages at the same index number.

34. I find that the previous Board had not strictly followed the Public Sector in every detail. But it had broadly followed the main features of any change there. I therefore find that the Board cannot exactly follow in all details whatever had happened in the Public Sector in the present case also. I cannot also close my eyes to the developments in that sector and ignore the past practice.

45. Shri Dudhia further argued that apart from the fact that the Public Sector employees have been given substantial Interim Relief, the cement workers did deserve a substantial Interim Relief on merits too.

36. Shri Kaka replying for the CMA said that the capacity to pay is an important consideration and the industry is not doing well, particularly during the last one year, and any burden on the industry now would cripple it.

37. Shri Dudhia countered this argument by saying one year is too short a period to judge the capacity of the industry. He added that certain information and documents called for by the Federation were not supplied by the CMA even though more than one full year had lapsed. The CMA had stated that only a few of its members have furnished some information and therefore they were unable to furnish the information called for by the Federation. In the circumstances, the CMA Shri Dudhia added, has proved nothing about want of capacity to pay.

38. Shri Dudhia also added that a part of the increase in wages would be taken care of by the levy price fixed by the Government from time to time and this is a unique feature of the cement industry. As for free market cement, he added that the increase on this account will be very insignificant and would therefore pose no problem at all.

39. Shri Kaka in his reply said that the levy cement is only 25 percent to 30 percent of the total cement production; and in respect of the non-levy cement the price will have to be recovered from the consumers in a competitive market which is not easy.

40. Shri Kaka also pointed out that some of the managements have modernised their units, and some new units have come into being since the last award. Both have the advantage of advanced technology and low labour cost. The older units are therefore at a disadvantage, employing a large labour force and any additional wage burden on them would hasten their sickness.

41. Shri Dudhia stated that this was not entirely correct. The new and modernised units have become very capital intensive, involving huge capital outlay. The cost of modernisation of old units is also heavy. Both have to suffer heavy interest charge on huge capital outlay, besides high depreciation, insurance charge, etc. All these would more than off-set the advantage of reduced man-power. The older unit, on the other hand, have less interest, depreciation and insurance burden, and this benefit, would to a great extent even out any disadvantage by increase in wage cost. In any case, Shri Dudhia said there may not be much of a difference between the two.

42. I think that these are matters which require to be studied in depth. It cannot be done while discussing the Interim Relief which is an urgent one and in the absence of agreed facts and figures. I can consider this aspect when I deal with it in any final award, when I hope all the relevant documents will be made available.

43. I have carefully considered all the arguments and the documents placed before the Board. I am convinced that some Interim Relief will have to be given. I am also convinced that such Interim Relief should take effect not from 1-1-86 but only from 1-7-86. In the past, the Board of Arbitration had given one at rate of Interim Relief to all employees in the cement industry, regardless of their basic pay. I would like to continue the same practice. Having considered all aspects of the matter I feel that an advance payment against the benefits due under the final

award should be given to workers with effect from 1-7-86. I am glad that although we have given our award separately the operative part of the Interim Award is unanimous.

44. Accordingly we gave our unanimous award as follows on 22nd January, 1988 :

1. Every employer in the cement industry will pay a sum of Rs. 2,500 (Rupees Two Thousand Five Hundred only) as advance to the workers against the benefits under the final award of the Board.

2. The payment of the above advance will be made as under :

(a) On January 31, 1988.—Rs. 1,000 (Rupees One Thousand only).

(b) On March 31, 1988.—Rs. 1,000 (Rupees One Thousand Only).

(c) On July 31, 1988.—Rs. 500 (Rupees Five Hundred only).

45. We have since agreed on the following clarification of our above interim Award :—

46. All categories of workers who were eligible for the benefits under the previous award will be eligible for the benefit under this Interim Award.

47. Workers who have worked or who will be working for a part of the period between 1-7-1986 to 31-7-1988 will get the benefit proportionately.

Signed at Madras on this the 19th day of February 1988.

G. RAMANUJAM, Arbitrator

AWARD OF SHRI M. H. DALMIA

BEFORE SHRI G. RAMANUJAM AND SHRI M. H. DALMIA

(Arbitrators Appointed Under Section 10A Of The Industrial Disputes Act, 1947)

In The Matter Of Industrial Disputes Between

The Workmen In The Cement Industry Represented By The Indian National Cement Workers Federation, Bombay-400004

AND

The Employers In The Cement Industry Represented By

The Cement Manufacturers Association Bombay-400020

APPEARANCES

For the Workmen:	For the Management:
Bar C.L. Dudhia	Shri F.N. Kaka
Shri H.N. Trivedi	Shri S.R. Pa akh
Shri N. Nanjappan	Miss. Roshni
Shri D.S. Vasavala	Andhyarajina
NLO and others	Shri Ramanand Rao
	KCP and others

INTERIM AWARD

1. The Indian National Cement & Allied Workers Federation, Bombay, on behalf of the workmen represented by it (hereinafter called the Federation) and the employers represented by Cement Manufacturers' Association, (hereinafter called the CMA) entered into an agreement on 9th September 1986 agreeing to refer the disputes, arising out of their several demands, for arbitration by Shri G. Ramanujam and Shri A. L. Kapur.

2. The said agreement was published by the Government in the Gazette of India, Part 2 Section 3 Sub Section (ii) dated 8th October 1986. A copy of the said reference to arbitration is annexed hereto and is marked Annexure—A.

3. The Federation's charter of demands referred to arbitration contains fifty demands, including, among others, increase in basic wages, D.A., H.K.A., and other allowances. The Federation's charter of demand is in Annexure—B.

4. The CMA's demands were fourteen in number, and included among others classification of cement units, productivity studies, special treatment of sick units, etc. The CMA's demands are listed in Annexure—C.

5. The Federation submitted in writing its Statement of Justification on 28th November, 1986 and simultaneously gave copies to CMA through the Board. The CMA submitted its counter to the Federation's Statement of justification on 12th March 1987, although it was required to submit its counter much earlier.

6. The CMA also furnished in writing its Statement of Justification of its 14 demands, on 31st December 1986, with copies to the Federation and other concerned unions.

7. The Federation submitted its written counter Statement to the said CMA's Statement of Justification on 19th February, 1987.

8. There were some writ petitions before various High Courts preferred by certain unions seeking to prevent the Government from making any notification under Section 10A(3A) of the I.D. Act of 1947.

9. On the basis of the observations of the Karnataka High Court the Labour Ministry of Govt. of India is reported to have called all the concerned Central Organisation of Labour for a discussion and subsequently made the notification under 10A(3A), evidently after satisfying itself that the signatories to the arbitration agreement, represent the majority of their respective side. At that stage, writ petitions filed in other High Courts were either pending or were dismissed, but there was no stay on the proceedings of the Board.

10. Demand No. 47 of the Federation's charter of demands deals with the demand for interim relief. It reads as follows:—

"All Employees shall be given Interim Relief of Rs. 800 per month with effect from 1-7-86" I.E. the day following the expiry of the previous award.

11. First regional hearing of the Arbitration Board was held on 8th and 9th of January, 1987 at Hyderabad.

12. The Arbitration Board fixed the Main Special Sitting on 31st August and 1st September 1987 to hear arguments from parties on the Federation's demand for Interim Relief. On 21st August, 1987, the nominee of the CMA, Shri A. L. Kapur resigned on the ground that he was saddled with additional responsibilities in his parent organisation. However, at the request of the Co-Arbitrator, Shri G. Ramanujam, Shri A. L. Kapur held his resignation in abeyance and attended the hearing fixed on 31st August and 1st September 1987.

13. The Board at its sitting in Bombay held on 31st August and 1st September 1987 heard both the parties only on the issue of interim relief. After hearing the Federation and such other trade unions who participated in the proceedings, the CMA started its reply. But the CMA could not complete its arguments and the matter remained parheard at the end of the second day, when further hearing was adjourned to 16th and 17th September, 1987.

14. The same evening Shri A. L. Kapoor, the arbitrator nominated by the CMA, stated that he is resigning from the Board with immediate effect on the ground that his company is not prepared to spare him any longer, and that a new nominee will be announced soon by the CMA.

15. This resulted in serious discontentment among the workers, particularly as it happened when the interim relief issue was about to be decided, and the sittings would not take place to complete the hearing on the appointed date with a new arbitrator. For, with a new arbitrator, the entire arguments by both the sides will have to be repeated, thus making it time consuming.

16. The CMA took immediate steps and nominated Shri P. B. Malvankar, retired justice of Bombay High Court and Ex-President of the Industrial Court, Maharashtra, as its Arbitrator. Immediately thereafter, on 7th September 1987, the Federation served Notice of Strike commencing from the midnight of Monday, the 12th October, 1987, in the Cement Industry contending that nomination of a retired High Court Judge on the Board of Arbitration by the CMA was not in keeping with the atmosphere that prevailed during the earlier arbitrations. The Federation insisted that the CMA should nominate some one from within the industry as its Arbitrator in place of Shri Malvankar (A copy of the strike notice no. HF17/7/9 dated 7-9-1987 is attached marked Annexure 'D'). Shri G. Ramanujam, the nominee of the Federation on the Board, resigned his membership of the Board.

17. It is true that the parties have a right to choose their nominees as arbitrators on the Board and a retired judge is not excluded. Nonetheless, the CMA was good enough not to make an issue of this and agreed to the suggestion of the Federation and appointed Shri M. H. Dalmia, President of the CMA, as its nominee in the vacancy caused by the resignation of Shri A. L. Kapoor.

18. Consequent on the above development, Shri G. Ramanujam withdrew his resignation and the Board was reconstituted with Shri G. Ramanujam and Shri M. H. Dalmia as members. On 16th October 1987, the CMA and the Federation jointly signed an Agreement substituting Shri M. H. Dalmia in place of Shri Kapur and Shri G. Ramanujam continuing. The same was forwarded to the Labour Ministry on 19th October 1987 for necessary action. Government published the above agreement in the Gazette of India on 26-10-1987.

19. The reconstituted Board met in Bangalore on 13th November, 1987 but did not proceed with its work as it was served an ex-parte ad-interim order of the Karnataka High Court, in writ petition filed by AITUC, directing us that AITUC was not to be asked to appear before the Board to make its submission before the Board and he made bound by its award, and restraining Government of India from passing any order under Section 10-A(3-A) of the Industrial Dispute Act 1947. The Board, by way of abundant caution, waited for a clarification of the said stay order. It was, however, not possible to get proper clarification and the Board decided to adjourn the hearing for interim relief to 18th and 19th December 1987 at Bombay.

20. It was later learnt that the above restraint order was against binding the AITUC Federation by the arbitrators' award by asking it to take part in the arbitration proceedings. In the order passed on 19-11-1987 clarifying position in regard to the above stay, the Karnataka High Court has said, inter-alia, "if others want to proceed with the same they are free to do so at their risk subject to final orders in this Writ Petition or other proceedings pending in this Court."

21. Subsequently, CITU and HMS have also filed a writ petition in the Karnataka High Court, and a similar interim order in their case too was passed on 17-12-1987, that is, the proceedings of the Board were stayed so far as it concerned the applicants.

22. The Board met in Bombay on 18th and 19th December 1987 and heard the representations of the Federation and certain other unions who wanted to be heard. Names of other unions which participated are in Annexure E. The CMA and some individual employers also addressed the Board in reply on 19th December 1987.

23. Shri C. L. Dudhia appearing for the Federation tried to justify the demand for interim relief on two grounds. The first that considerable time had lapsed since the expiry of the earlier award, which was on 30th June, 1986 and the second that it will take some more time for the Board to give its final award, particularly in view of the numerous demands referred to it by both the sides for Arbitration. He therefore impressed upon us the urgent need for granting an interim relief to the workers.

24. He invited our attention to the Federation's demand for interim relief of Rs. 800 per month to be paid to every worker with effect from 1-7-86, then it was pointed out to him that the demand of the Federation was unrealistically high, Shri Dhadia was willing to scale it down to a reasonable level, although he would not mention, at that stage, the figure which, according to him, would constitute the reasonable level.

25. Shri Dhadia referred to the recent agreement in the Central Government Public Sector Undertakings, where about 21 lakhs of workers who were on the same rate of Industrial DA as the cement workers in the country, viz., at Rs. 1.65 per point of the All India Consumer Price Index (960 base), were given substantial interim increases, ranging from Rs. 100 to Rs. 420 per month, depending upon the slabs of basic scales of pay of the employees. He also pointed out that employees in the public sector undertakings have got their interim increases with effect from 1-1-86 even where their agreement had not expired. He therefore tried to modify his demand on interim relief so as to be effective from 1-1-86 instead of from 1-7-86.

26. Shri Dhadia urged that the Board should accept whatever has been done in the case of public sector workmen in regard to interim relief and, in support, said that the earlier Board of Arbitration had allowed increase in dearness allowance on the basis of Rs. 1.30 per point because the same had been done in the case of public sector undertakings. He further said that while opposing increase in Dearness Allowance at the rate higher than Rs. 1.30 per point, CMA had argued before the earlier Board of Arbitration that, since the said rate continued to apply in almost all public sector undertakings, there was no justification for any increase and the Board advised the parties to await recommendation of the Dearness Allowance Committee. Thus, Shri Dhadia said the earlier Board had not ruled out completely linkage with public sector. Shri Dhadia, then, said that apart from the fact that the public sector employees have been given substantial interim relief, the Cement workers did deserve substantial interim relief on merits.

27. On behalf of Cement Manufacturers' Association the following submissions were made by Shri Kaka :—

- The demand for interim relief of Rs. 800 per month is totally unreasonable and unjustified as conceded by Shri Dhadia himself.
- The present level of wages of cement workers is more than fair. There is no justification or any relief, much less interim relief.
- As on 1-12-1987, the wages including allowances of an un-skilled worker on entry in Cement Industry is as high as Rs. 1,368.55 per month and that compares favourably with the wages prevailing in the other major industries in the Country.
- The present financial position of the cement industry is critical and there is no capacity for paying higher wages.
- According to the statements showing profit after tax as percentage of net worth and profit after tax per tonne of cement sold from 1982-83 till 1987, which were submitted, the Industry's profitability had declined sharply as follows :—

Year	Profit after tax as % of net worth	Profit after tax per tonne cement sold
1982-83	22.61	52.36
1983-84	0.45	1.24
1984-85	(—)3.28	(—)4.83
1985-86	(—)3.84	(—)4.73
1986-87	(—)10.03	(—)36.21
1987	—	(—)75.02

(f) The sharp decline in the profitability was due to:—

- Steep increases in the cost of inputs like coal, freight on coal, gypsum, cement, etc., power tariff, Dearness allowance, royalty and cess on minerals, etc.
- Inadequate and belated compensation in the retention price for levy cement by the Government, in regard to the cost increase.
- Fall in the selling price of non-levy cement on account of heavy increase in production of cement which has outstripped the demand.
- There is no prospect for improvement in the profitability of the Cement Industry in the foreseeable future as additional installed capacity of 13 million tonnes is in the pipe line whereas the expected growth in demand will be much lower.
- Market prices of shares is one of the indices of prosperity or otherwise of the companies. Share prices of cement companies have considerably declined. According to the statement giving stock exchange quotations of the share of A.C.C. and five other cement companies from June 1982 to December 1987, which has been submitted, price of A.C.C. share had declined from Rs. 312 in June 1982 to Rs. 131 in December 1987.
- According to the Economic Times index of share prices for Cement from 1982, which had been submitted, the index for maximum price of shares of cement companies declined from 114 in June 1985 to 88 in December 1987, a fall of about 23%. As against that, the index number for shares of All Industries rose from 183.5 in June 1985 to 244.3 in December 1987 i.e. rise of 33 per cent.
- In most of the cement units, labour productivity is very low. Man hours per tonne of cement produced vary from 1.77 hours to 18.78 hours (in some cases even 37.06 hours to 55.5 hours). Most of the units with high man hours per tonne of cement produced are old and even otherwise sick and any uniform increase in wages would hit these units hard and many of the units may be forced to close down.
- The impact of increase in wages by Rs. 100 per month per workman on cost of production of cement per tonnes would be ranging from approximately Rs. 2 per tonne to Rs. 21 per tonne which would be unbearable and totally unjustified. (The above figures exclude cases of man hours in excess of 18.78 hours).
- The Board has no jurisdiction to go beyond the demands mentioned in the charter of demands annexed to the agreement. Since, the Federation's demand for interim relief is from 1-7-86, the Board cannot consider the request of Shri Dhadia for giving the relief from 1-1-1986.
- The Cement Industry cannot be guided by the interim relief given by the Government in the case of the Public Sector Undertakings. While in the Public Sector any loss suffered would be made up by budgetary support, in case of Cement Industry, which is predominantly in the Private Sector, any loss would go uncompensated and would make the units sick, and in that process, the workers too will suffer. Even in the past the earlier Boards of Arbitration have not followed the Public Sector and that was for very good reasons.

28. In reply, Mr. Dhadia, on behalf of the Federation, stated that though the condition of the Industry is not so bright, at present, one has to take into account the long term point of view. He mentioned about the low per capita consumption of cement in the Country and the consequent scope for increase in the demand for cement. He also drew the attention of the Board to news appearing in the press from time to time and to the statement Mr. N. A. Palkiwala made at the Annual General Meeting of A.C.C. about the expected relief package for levy cement and expressing some optimism about the future of the Industry.

29. After carefully considering all the submissions made before us and the written statements and documents placed before us, both Shri Ramanujam and I felt :—

- (a) that while the interim relief given by the Government to the workmen of Public Sector Undertakings may be one of the various factors to be kept in view, it cannot be sole ground for deciding the question of interim relief to the cement workers;
- (b) that, as stated by our predecessor Board, "The Cement Industry will have to hammer out its own wage pattern for itself looking to its own capacity to pay both present and potential and its needs for modernisation and expansion. We would also keep in mind the interest of the consumers. .".
- (c) that, the contentions of Shri Kaka that if any relief is to be awarded, it cannot be made effective from any date prior to 1-7-1986, is correct.
- (d) that although, according to the statements submitted by CMA (the Federation neither accepted nor controverted the figures) the profitability position of the cement industry for the time being is not satisfactory, it is expected that the Government is shortly going to revise the retention price for levy cement and make other concessions to the industry like reduction in levy quota, etc. to compensate for the losses it is suffering on levy cement.
- (e) that examining all the issues concerning the question whether any wage increase is or is not called for or justified will take enormous time and can be done only when we proceed for the final award. On the other hand, considerable time, for one reason or the other, has already passed since agreement to refer the demands of the workmen to arbitration was signed on 9-9-1986.
- (f) that an advance be given to the workers against the benefits under the final award of the Board.

30. Hearing on the question of interim relief had concluded in the evening of 19-12-87. On 21-12-87 (20-12-87 was Sunday), the Federation, by their letter HF: 17/21/12, gave notice of indefinite All India General Strike of Cement Workers in all cement factories, quarries, mines, offices all over India from mid-night of Friday, the 22nd January, 1988 till the same interim relief paid to the employees in Government public sector was granted to all cement workers w.e.f. 1-7-1986. A copy of the above strike notice is annexed marked as Annexure-F. This strike notice, without allowing any time for the award being given, coupled with the earlier strike notice (Annexure-D) insisting on an arbitrator from within the industry when, admittedly, choice of a retired Judge as an arbitrator is not excluded, in my opinion, were pressure tactics which have no place in the course of arbitration and should, I think, have been avoided.

31. It would not have been proper and justified to consider awarding any interim increase in emoluments even as an interim measure without atleast prima facie coming to the conclusion that the industry had the capacity to bear the increased burden.

32. The above strike notice and the subsequent events delayed giving of the award. We gave our unanimous award (without reasons), as follows, on 22-1-88, and it was decided that award with reasons be written by each of us separately:—

- (i) Every employer in the cement industry will pay a sum of Rs. 2,500 (Rupees two thousand and five hundred only) as advance to the workers against the benefits under the final award of the Board.
- (ii) The payment of the above advance will be made as under :—
 - (a) On January 31, 1988 Rs. 1,000 (Rupees one thousand only).
 - (b) On March 31, 1988 Rs. 1,000 (Rupees one thousand only).
 - (c) On July 31, 1988 Rs. 500 (Rupees five hundred only).

33. We have since agreed on the following clarification of our above interim Award :—

- (i) All categories of workers who are eligible for the benefits under the previous award will be eligible for the advance under this interim award.
- (ii) The workers who have worked or who will be working for a part of the period between 1-7-1986 to 31-7-1988 will get the advance proportionately.

34. As is clear, beyond any doubt, under the interim award (there is no increase, of any kind whatsoever, in emoluments. The advance is only a stop-gap arrangement and, as is clearly laid down, is to be adjusted against benefits, if any, that may be awarded under the final award. It need hardly be said that advance is not to pre-judge, in any manner, the question whether any benefit is or is not to be granted under the final award. The advance, therefore, cannot and must not give rise to any presumption of any kind. That will, obviously be incorrect and would be contrary to what has been stated in clause (c) of para 29 above.

35. If question is raised : In what manner adjustment of the advance will be made if, for any reason, the arbitrators come to the conclusion in their final award that no benefit could possibly be awarded, answer to it would, obviously, be that, if necessary, the matter would be considered at the appropriate time.

Signed at New Delhi on Seventh March, 1988.

M. H. DALMIA, Arbitrator

ANNEXURE - A

FORM 'C'

(See Rule 7)

AGREEMENT

(Under Section 10A of the Industrial Disputes Act, 1947)
BETWEEN :

Name of the Parties :

Representing employers:—Cement Manufacturers' Association, Express Building, Opp. Churchgate Railway Station, Bombay-400020.

Representing workmen:—Indian National Cement & Allied Workers' Federation, Mazdoor Karyalaya, Congress House, Bombay-400004.

PREAMBLE

Whereas the Indian National Cement & Allied Workers' Federation (hereinafter referred to as the "INCAWF") by its letter No. HF/7/30/4 dated 30th April 1986 addressed to the Cement Manufacturers' Association (hereinafter referred to as "CMA") served Notice of its intention to terminate the Award of the Board of Arbitration dated 11th July 1983 which Award was published in the Gazette of India Extraordinary Part II-Section 3, Sub-Section (ii) dated 20th July 1983 from page No. 1 to 82.

And whereas, the INCAWF thereafter submitted a charter of demands dated 9th May 1986 to CMA under cover of its letter No. HF. 49/9/5 dated 9th May 1986. Annexed hereto and marked as Annexure "A" is a copy of the Charter of Demands dated 9th May 1986; Annexure 'A'.

And whereas the CMA also raised some Demands which are contained in the Annexure "B" attached hereto. Annex. "B".

And whereas the parties held joint negotiations with a view to arrive at an amicable settlement;

And whereas, on failure of the negotiations to arrive at an amicable settlement, the parties have agreed to refer their respective disputes, viz. the demands raised by INCAWF and CMA (Annexures "A" AND "B" respectively) to the Board of Arbitration under Section 10-A of the Industrial Disputes Act, 1947:

And whereas according to CMA the Arbitrators should take into account, amongst other matters, the general economic condition, financial resources of the Cement Industry, paying capacity and level of productivity of the constituent Units and according to the INCAWF other relevant factors have to be taken into account by the Arbitrators;

And whereas the parties have further agreed to request the Central Government that in view of the fact that the INCAWF represents a majority of workmen and the CMA represents all the employers in the Cement Industry, the arbitration should be on a national level covering all the Cement Units and all their workmen and that the Central Government should therefore issue notification under Section 10-A(3-A) of the Industrial Disputes Act, 1947;

It is hereby agreed between the parties to refer the following industrial disputes to the arbitration of

- (1) Shri G. Ramanujam,
2/44, Royapettah High Road,
Madras-600014.
 - (2) Shri A. L. Kapur,
The Associated Cement Companies Limited,
Cement House,
121, Maharhi Karve Road,
Bombay-400020.
- (i) Specific matters in dispute:
- (a) Whether the demands as contained in the Charter of Demands dated 9th May 1986 (Annexure 'A') are justified? If so, to what relief are the workmen entitled?
 - (b) Whether the demands raised by CMA which are contained in Annexure 'B' attached hereto are justified? If so, to what relief are the cement units entitled?
- (ii) Details of the parties to the disputes including the name and address of the establishment or undertaking involved:
- (a) Cement Manufacturers' Association, Express Building, Opp. Churchgate Railway Station, Bombay 400 020.
 - (b) Indian National Cement & Allied Workers' Federation, Mazdoor Karyalya, Congress House, Bombay 400 004.
- (iii) Name of the workmen in case he himself is involved in the dispute or the name of the Union, if any, representing the workmen or workman in question:
- (iv) Total number of workmen employed in the undertaking affected: 1,00,000 (Approximately)
- (v) Estimated number of workmen affected or likely to be affected by the dispute: 1,00,000 (Approximately)

We further agree that the unanimous decision of the Arbitrators shall be binding on the parties. In case the Arbitrators are divided in their opinion they shall appoint another person mutually acceptable as Un-pire, whose Award shall be binding on the parties.

The Arbitrators shall make their Award within a period of six months from the date of publication of this Agreement in the official Gazette by the appropriate Government or within such further time as is extended by mutual agreement by the parties in writing.

The cost of the arbitration will be borne by the employers. If there is any dispute on admissibility and reasonableness on the question of cost, the Arbitrators will decide the dispute.

Dated at Bombay this 9th day of September, 1986.

Signature of the parties:

Representing employers:
For and on behalf of the
Cement Manufacturers' Association,
Sd/- (J. R. BIRLA),
President

Representing of workmen:
For and on behalf of the
Indian National Cement &
Allied Workers' Federation.
Sd/-
(H. N. TRIVEDI)
President.

Witnesses:

(1) Sd/-
(G. L. GOVIL)
(2) Sd/-
(S. M. CHAKRAVARTY)

Witnesses:

(1) Sd/-
(C. L. DUDHIA)
(2) Sd/-
(V. H. JOSHI)

ANNEXURE 'B'

CHARTER OF DEMANDS

Demand No.1.—Coverage:

All the following categories of employees shall be covered under the Charter of Demands and given all benefits under the said demands from 1-7-1986 :

- (a) All employees full time, part-time, seasonal permanent temporary, probationer, casual badii, M.M.R. Trainees, apprentices, contract labour and others.
- (b) All employees working in New and old cement factories and Manufacturers, Mines, Offices, Colonies, Schools, Lifts and Recreation Clubs etc.
- (c) All employees working in Limestone, Lime-tanker, Gypsum, Laterite, Chart and Marine Labour and all employees in mines leased by the Government directly or lease obtained by the Contractors.
- (d) All employees working in the limestone mines leased obtained by the third party, where bulk quantity of the product is consumed by the Cement Company.
- (e) All employees working in brick or lime kiln operated by third party where the bulk quantity of the product is consumed by the Cement Company.
- (f) All employees working on lorries, trucks, trailers etc. owned or hired by the Cement Company or by the third party but used for transport of cement, limestone, bricks, lime, slag, gypsum, sea-sand, fly-ash, etc.
- (g) All employers working in Refractory, factories, manufacturing, fire bricks for Kiln lining power house of cement factories, high alumina cement etc. where bulk of the product is consumed by cement company including Katni Refractory Works of the A.C.C. and third party etc.
- (h) All the employees working in Mini Cement Plants, and white cement plants and quarries connected therewith.
- (i) All employees working in the manufacture of building bricks used as raw material for manufacturing Pozolona cement, which are carried on by the third party where bulk product is consumed by Cement factories.

Demand No. 2—Minimum monthly emoluments by way of Basic, D.A. and H.R.A. :

Minimum total emoluments by way of Basic, D.A. and H.R.A. for an unskilled employee shall be Rs. 1817.20 per month as mentioned below with effect from 1-7-1986.

Rs. 1,060.00	Basic wage at 400 points of All India Working Class Consumers' Price Index (Base 1960-100).
Rs. 604.30	Dearness Allowance at All India Working Class Consumers' Price Index No. 628 at the rate of Rs. 2.65 per point over and above All India Working Class Consumers' Price Index of 400 (Base 1960-100)
Rs. 53.00	Additional Dearness Allowance at 5% of basic wage.
Rs. 100.00	House Rent Allowance.
Rs. 1,817.20	Total per month.

Demand No. 3.—Scales of Pay :

The following scales of pay shall be introduced for all employees with effect from 1-7-1986.

E.	1,060 — 15 — 1,285	(15 years)
D.	1,100 — 20 — 1,400	(15 years)
C.	1,150 — 30 — 1,600	(15 years)
B.	1,200 — 45 — 1,875	(15 years)
A.	1,300 — 65 — 2,275	(15 years)
TC	1,100 — 25 — 1,475	(15 years)
I	1,150 — 35 — 1,675	(15 years)
II	1,200 — 45 — 1,875	(15 years)
III	1,250 — 55 — 2,075	(15 years)
IV	1,300 — 65 — 2,275	(15 years)
V	1,350 — 75 — 2,475	(15 years)
VI	1,400 — 85 — 2,675	(15 years)
VII	1,450 — 101 — 2,950	(15 years)

Piece-rated Workers.—The piece rates of piece rated workers shall be so fixed that they get atleast 50% higher emoluments than the time rated workers for same hours of work. They shall be given the minimum guaranteed total emoluments not less than the minimum total emoluments of time rated workers irrespective of their hours of work.

Demand No. 4.—Stagnation and promotion increment:

All employees who reach the maximum of the grade shall be continued to be given annual increments drawn in the grade.

Demand No. 5.—Dearness Allowance.

For the rise and fall in All India Working Class Consumers' Price Index (Base=100) beyond 400, dearness allowance shall be paid to all employees at the rate of Rs. 2.65 per point with effect from 1-7-1986.

Demand No. 6.—Additional Dearness Allowance:

Additional Dearness Allowance shall be paid at the following rates to all employees with effect from 1-7-1986.

5% of Basic wages to employees in Grade E

10% of Basic wages to employees in Grade D & C.

15% of Basic wages to employees in Grades B & A and all T.C., Clerical Lower Technical and Supervisory staff.

The existing Special D.A. of Rs. 8.50 per month paid to T.C., Clerical and other staff shall be increased to Rs. 50 per month with effect from 1-7-1986.

Demand No. 7.—House Rent Allowance.

All employees shall be paid monthly House Rent Allowance as under with effect from 1-7-1986:

Rs. 100.00	to employees in E & D Grades
Rs. 125.00	to employees in C & T.C. Grades
Rs. 150.00	to employees in B, I and II Grades
Rs. 175.00	to employees in A, III, IV Grades
Rs. 200.00	to employees in V, VI, VII Grades.

Demand No. 8.—House Rent Allowance:

House rent recovery for the quarters provided by the Company shall not be increased beyond the present quantum.

Demand No. 9.—Guaranteed increase, adjustment & service—weightage:

All employees shall be given a salary increase of not less than Rs. 725 per month as Guaranteed increase. The Guaranteed increase shall be added to the existing total emoluments of the employees as on 30-6-1986 consisting of Basic Wages, Dearness Allowance, Additional Dearness Allowance, House Rent Allowance. The new total emoluments shall be reworked into the new basic wages/salary, dearness allowance, additional dearness allowance and house rent allowance. This may be done by first deducting the minimum house rent allowance payable to the unskilled workers, then deducting D.A. and Addl. D.A. payable to the unskilled workers at All India Working Class Consumers' Price Index 628 and the balance will be treated as the basic wage of an employee. Thereafter if the basic wage of an employee falls below the minimum of the new grade as a result of such reworking, his basic wage shall be brought up to the minimum of the grade applicable. If the basic wage falls between the two steps in the revised demanded grade applicable, it shall be brought up to the next higher step in the new grade. After arriving at the new basic wages as mentioned above, one increment in the new scale for every two years of service shall be added to the basic wages as service weightage. The adjusted basic wage, D.A. and Addl. D.A. and H.R.A. shall be paid to all the employees as demanded with effect from 1-7-1986.

Demand No. 10.—City Allowance:

All employees working in those factories, quarries and offices which are situated near Cities, Towns and Holy places or bill stations shall be paid City Allowance at the rate of 10% of total salary with allowances per month with effect from 1-7-1986.

Demand No. 11.—Heat Allowance:

All employees shall be paid Heat Allowance at the rate of 10% of their basic wage per month with effect from 1-7-1986.

Demand No. 12.—Dust Allowance:

All employees shall be paid dust allowance at the rate of 10% of total salary with allowances per month with effect from 1-7-1986.

Demand No. 13.—Heavy Duty Allowance:

All drivers, operators of Dozer, Truck, Lorry, Bus, Dump-cr Fork-lift truck, Shovel, Halco, Drill, Loco, all types of Cranes irrespective of capacity, Scraper or Crusher or any other Heavy Earth Moving machinery shall be paid Heavy Duty Allowance at the rate of 10% of total salary with allowances per month with effect from 1-7-1986.

Demand No. 14.—Night Shift Allowance:

Employees working in Shifts at any time between 6 p.m. and 7 a.m. shall be given Night Shift Allowance at the rate of Rs. 5 per shift with effect from 1-7-1986.

Demand No. 15.—Conveyance Allowance:

Conveyance allowance shall be paid as under to all employees with effect from 1-7-1986.

Rs. 250 per month to employees who have scooter or Moped.

Rs. 100 per month to all other employees.

Demand No. 16.—Long Distance Allowance:

Employees who are coming to duty from a distance of 5 Kms. or more shall be given long distance allowance of Rs. 10 per day with effect from 1-7-1986.

Demand No. 17—Cash Handling Allowance:

Employees who are handling cash for disbursement of salaries on pay day shall be given an allowance @Rs. 50 per day on pay day with effect from 1-7-1986.

Demand No. 18—Acting Allowance:

If an employee works or officiate in place of another employee in a higher grade or post, he shall be paid acting allowance equal to the difference between the total emoluments of the employee in whose place he works or officiate and his own total emoluments or 15% of his total emoluments whichever is higher. The Acting Allowance shall be paid to an employee even if he works or officiate for a day or more in a higher post or grade with effect from 1-7-1986.

Demand No. 19—Education Allowance:

Education Allowance shall be paid to all employee for education for self, children, spouse of the employee at the rate of Rs. 200 per month per head with effect from 1-7-1986.

Demand No. 20—Leave Travel Allowance:

One month's total emoluments shall be paid to all employees once a year as leave travel allowance, unconditionally with effect from 1-7-1986. This shall be allowed to be accumulated for three years.

Demand No. 21—Incentive Scheme:

Incentive scheme shall be introduced in all the factories, quarters, offices, etc. as under with effect from 1-7-1986.

- A. Whether capacity utilisation is above 75% and below 85 per cent of installed capacity, 10% of total emoluments.
- B. Where capacity utilisation is above 85% and below 95 per cent of installed capacity, 15 per cent of total emoluments.
- C. Where capacity utilisation is above 95% and below 100 per cent of installed capacity, 20 per cent of total emoluments.
- D. Where capacity utilisation is 100% and above, of installed capacity, 25% of total emoluments.

Demand No. 22—Leave Facilities:

15 days privilege leave, 10 days sick leave and 3 days casual leave with full pay and allowances shall be added to the existing quantum of leave facilities for all employees. Privilege, Casual and Sick leave shall be allowed to be accumulated or encashed at the option of the employee at any time. Casual, temporary, badli workers etc who have worked for less than 240 days in any year shall be allowed leave facilities pro rata.

All workers under contractors if any etc. shall be given privilege, casual and sick leave as given to other departmental employee of the Company. The leave facilities shall be with effect from 1-7-1986.

Demand No. 22—Leave Facilities:

All employees shall be given all Bank and Festival Holidays with full pay and allowances with effect from 1-7-1986.

All employees shall be given one day's total salary and all allowances or given one day's extra paid leave when a Bank or Festival holiday falls on their weekly offs.

Demand No. 24—Special Leave for Office Bearers:

Office bearers of the recognised Unions and the Federation shall be given special leave of 10 days with full pay and allowances in a month to attend Union or Federation meeting at Regional or all India levels or for Union or Federation work and to attend Conciliation etc.

Demand No. 25—Uniforms, shoes and socks:

All employees shall be supplied with four pants and four shirts and terry cotton and for female employees four saris, blouses and petty coats every year with effect from 1-7-1986.

All employees shall be supplied with two pairs of shoes and four pairs of socks every year and female employees shall be supplied with two pairs of chappals every year with effect from 1-7-1986.

Demand No. 26—Washing Allowance:

All employees shall be paid Rs. 30 per month as washing allowance with effect from 1-7-1986.

Demand No. 27—Five Day Week :

Five day week shall be introduced in all the cement plants and quarries including Offices for all employees without any reduction in their monthly regular emoluments.

Demand No. 28—Over Time:

If an employee is asked to work more than 8 hours a day, he shall be paid overtime at twice the normal rate of pay, including all allowances. If an employee is asked to work on a weekly off or on a Festival or Bank Holiday, he shall be paid overtime at twice the normal rate of pay including all allowances in addition to extra one day's full pay and allowance. This will be in addition to any other allowance paid to him. This shall be with effect from 1-7-1986.

Demand No. 29.—Loan for vehicles:

Interest free loans for purchasing vehicles shall be given to all employees, as under :

- Rs. 10,000 for Scooter
- Rs. 5,000 for Moped
- Rs. 1,000 for Bicycle.

Demand No. 30—Housing Loan :

All employees shall be given housing loan equivalent to his 40 months' total emoluments free of interest for construction or repair of his house etc. The recovery of the amount may be made in 180 equal monthly instalments.

Demand No. 31—Food grain advance:

All employees shall be given an advance of two months' total salary including all allowances, free of interest per year to purchase seasonal grains such as wheat, rice, groundnut oil, etc. and it may be recovered in twelve equal monthly instalments.

Demand No. 32—Provident Fund:

Provident Fund contributions both from the employers and the employees shall be 10% each of the total salary with all allowances with effect from 1-7-1986.

Demand No. 33—Gratuity:

With effect from 1-7-1986, gratuity at the rate of one month's salary including all allowances shall be paid (last drawn) to all employees for every year of service in case of death, retirement, resignation, disability to continue further in service, termination of service for any reasons whatsoever.

Demand No. 34—Retirement Age :

No employee shall be retired before he reaches the age of 65 years.

Demand No. 35—Pension:

Pension Scheme shall be introduced for all employees as under :—

- (a) If an employee retires after superannuation, he shall be paid pension equivalent to 50% of his monthly salary including all allowances shall be paid as pension till his death.
- (b) If an employee retires after 30 years of services, he shall be paid pension equivalent to 75% of his monthly salary including all allowances till his death.
- (c) If an employee dies while in service, an equivalent to 75% of his monthly salary including all allowances shall be paid to his widow till his death and to his children till they attain the age of 21 years.
- (d) If an employee retires prematurely on Medical grounds, he shall be paid pension equivalent to 75% of his monthly salary, including all allowances till his death.

Demand No. 36—Medical Benefit :

Full reimbursement of the medical bills of employees and their family members shall be made within one week from submission of the bills. This shall be effect from 1-7-1986.

Demand No. 37—Departmental Labour:

All work connected with manufacturing process, repairs of machinery, roads for loading and unloading of coal, cement, all types of raw materials, gunny bags, cleaning, etc. shall be carried out by the Departmental labour only.

All employees at present working under the contractors shall be absorbed as permanent employees with continuity of service in the Company.

Demand No. 38—Casual, Badli, Temporary Labour :

All casual, badli temporary employees working on process jobs shall be made permanent.

Demand No. 39—Contract Labour:

No contract labour shall be allowed to work inside or outside the factory or mine or quarry or on the repair job of roads, connecting roads where Company's dumpers or trucks ply to feed limestone to crushing plant, gunny bags, cleanings, etc. No contract labour shall be allowed for minor and major repairs of machinery including ropeway or in manufacturing process.

Demand No. 40—Promotion:

All employees shall be promoted to a higher grade atleast after every 10 years service.

Demand No. 41—Recruitment:

Atleast one son or daughter or dependent of every employee shall be given employment in the Company within one month after the retirement of the employee or after the death of the employee while in service, or fatal accident or resignation of an employee after 10 years of service.

Demand No. 42—Cement at concession:

For building or repairing the house of the employees, they shall be given upto 300 bags of cement at a discount of 25% of ex-factory levy price.

Demand No. 43—Long service award:

All employees who put in long service in the Company shall be given long service awards as under:

- A. Those who put in 15 years' service, one month's total salary with all allowances.
- B. Those who put in 25 years' service, 1-1/2 month's total salary with all allowances.
- C. Those who put in 30 years' or more service, two months' total salary with all allowances.

Demand No. 44—Nomenclature:

Nomenclatures and fitments and grades shall be revised as per the Annexure.

Demand No. 45—Participation of labour in management:

A Scheme for participation of labour in management shall be introduced in all cement factories and quarries at all levels including the Board of Directors.

Demand No. 46—Effect:

All demands shall be given effect from 1-7-1986.

Demand No. 47—Interim Relief

All employees shall be given interim relief of Rs. 800/- per month with effect from 1-7-1986.

Demand No. 48—Monthly paid system:

All employees shall be brought under monthly paid system with all consequential benefits.

Demand No. 49—Machinery to resolve disputes:

A. For clarification; interpretation or removal of any doubts or ambiguity in any of the terms of award or settlement, the same name shall be referred to voluntary Arbitration.

B. With a view to avoid confrontation and disputes in connection with proper, effective and speedy implementation

of any of the terms of settlement or award, there shall be an appropriate bipartite machinery with equal representatives of workers and management.

Demand No. 50—Existing rights and benefits:

All the existing rights, benefits and privileges etc. which are more favourable shall not be adversely affected.

H. N. TRIVEDI,

President,

Indian National Cement &
Allied Workers' Federation.

ANNEXURE

Sr. No.	Occupational Nomenclature	Demand Grade
1	2	3
1.	Armature Winder	V & VI
2.	Ayah	I II
3.	Auxillary Nurse	III
4.	Bags Brander	C
5.	Bearer	B
6.	Boller Attendant	V VI VII
7.	Cable Joiner	(a) V & VI
8.	Canteen Vendor	D & C
9.	Carpenter	(b) A & V
10.	Cook	B & A
11.	Crane Driver	A & V
12.	Crusher Operator	A & V
13.	Diesel Mechanic	A V & VI
14.	Dryer Operator	A & V
15.	Electrician-cum-Wireman	V & VI
16.	Electrician	VI-VII
17.	Gangman	B & C
18.	Hammerman	C
19.	Havildar/Jamadar	A & V
20.	Security Supervisor	VI & VII
21.	Instrument Mechanic	V VI
22.	Khalasi	B A V
23.	Lab Boy	C & B
24.	Loco Driver	A & V
25.	Loco Fireman	B
26.	Operator	B & A
27.	Plant Operator	B & A
28.	Mali	B
29.	Mason	B & A & V
30.	Mazdoor/Helper	E & D
31.	Packing Loader	D & C
32.	Bucket Loader	B & A
33.	Pay Loader	D & A
34.	Shift Incharge Cement Mill Raw Mill [Coal Mill]	VI & VII
35.	Motor Vehicle Driver	A & V
36.	Packer Man	B A & V
37.	Nodulizer Operator	B, A & V
38.	Painter	B & A
39.	Peon	C & B
40.	Points Men	B & A
41.	Heavy Equipment Operator	A & V
42.	Blaster	B & A
43.	Sticher	B & A
44.	Sweeper	E & D
45.	Switch Board Turbine Attendant	A & V

ANNEXURE "C"

1	2	3
46. Testing Boy		B & A
47. Ward Boy		E & D
48. Washer Man		C & B
49. Black Smith		B, A & V
50. Fitter		B, A & V
51. Machine Tool Operator C Turner Machinist Driller/Planing Shaping/Milling Sawing Man		B A & V
52. Machinery Attendant		C & B
53. Milles		A & V
54. Moulder		B & A V
55. Quarry Driller		B, A & V
56. Welder		B & A V
57. Stores Issuer		T & I
58. Dresser		II & III
59. Midwife		III & IV
60. Clerk General		III & IV
61. Sr. Clerk/Sr. Assistant		V & VII
62. Tester-cum-Gauger Quality Process Controller		V & VI
63. Typist/T.P. Operator/Telex		VIV & V
64. Steno Typist/Stenographer		V & VI
65. Telephone Operator		IV & V
66. Time Keeper		IV & V
67. Sr. Time Keeper		VI & VII
68. Pr. Trained Teacher		III & IV
69. Tracer		II & III
70. Loading Supervisor		II & III
71. Pharmacist		V & VI
72. Secondary Trained Teacher		VI & VII
73. Mining Mate		XII & VII
74. Sanitary Inspector		V & VI
75. Trained Teacher		VI & VII
76. Shift Incharge/Packing House		VI & VII
77. Charge Hand		VI
78. Yard Supervisor		IV & V
79. Blasting Supervisor		VI & VII
80. Lab Asstt.		VII
81. Lab. Technician		VI & VII
82. Nurse Male-Female		V & VI
83. Tariff Incharge		VI & VII
84. Canteen Supervisor		V & VI
85. Statistician		VII
86. Burner		VI
87. Shift Incharge Burner		VII
88. Asstt. Foreman		VII
89. Overseer		VII
90. Chief Time Keeper		VII
91. Asstt. Accountant		VII
92. Asstt. Store-keeper		VII
93. Cashier		VII

Demands Charter of Cement Manufactures Association

Demand No. 1—Productivity Studies.

Any increase in wages shall be related to increase in productivity at each unit and to achieve this, joint productivity studies under the guidance of National Productivity Council on any other similar body be undertaken by a joint team comprising the representatives of the employer and workmen at local level and the recommendations of the study team shall be implemented in consultation with the recognised Union.

Demand No. 2—Rational Job Combination.

For optimum utilisation of manpower and improving productivity, rational job combination shall be introduced.

Demand No. 3—Multi-craft Job Orientation.

Multi-craft Job Orientation programme shall be introduced to enable workmen to acquire skills in more than one trade for optimum utilisation of existing manpower.

Demand No. 4—Modernisation/Mechanisation, etc.—Surplus Labour.

As a result of modernisation/mechanisation/introduction of improved technology, any surplus labour force resulting therefrom shall be deployed on available jobs in the same Unit or in any other Unit belong to the Company without detriment to their emoluments.

Demand No 5—Medical Care/Specialist Medical Treatment

(a) Employers shall have no obligation whatsoever to provide any medical care/specialist medical treatment to the employees and their dependant covered by the ESI.

(b) In case of employees not covered by ESI, for providing specialised in-patient treatment to him or to his dependants a reasonable amount of reimbursement not exceeding Rs. 2,500 in block period of three years be provided.

Demand No. 6—Canteen.

Canteen shall be run on "no profit-no loss" basis and accordingly prices of items served in the Canteen shall be revised periodically.

Demand No. 7—Use of electricity for domestic purposes.

To avoid indiscriminate use of electricity, reasonable limit on consumption of electricity be fixed and electricity consumption beyond the said reasonable limit be charged at actual cost to the employee.

Demand No. 8—Wilful and deliberate 'Go-slow' tactics.

Without prejudice to the employer's right to take suitable disciplinary action, workmen who resort to wilful and deliberate 'go-slow' tactics shall be paid only pro-rata wages based on actual output.

Demand No. 9—Accident leave.

(a) There should be a waiting period as provided under the ESI Act/Workmen's Compensation Act for treating the period of absence from duty as accident leave with pay.

(b) The amount of compensation payable for total/partial permanent disablement shall be paid after setting off the amount of fortnightly compensation payable under the Workmen's Compensation Act as provided under the said Act.

Demand No. 10—Sick units.

What relief should be given to sick units.

Demand No. 11—Dust Allowance :

In such of the cement plants where Pollution Central Equipment have been installed and are in operation, there is no justification for continuing to pay Dust Allowance, except in packing house, and the same should be discontinued.

Demand No. 12—Heat Allowance.

In such of the cement plants where Centralised Instrumentation Control System has been installed, there is no justification for payment of Heat Allowance and the same be discontinued.

Demand No. 13—New Units.

In case of New Units 75% of award rates of wages be paid for a period of 24 months from the date of commencement of commercial production, or till such time they attain 85% capacity utilisation, whichever is earlier.

Demand No. 14—Classification of Cement Units.

Classification of Cement Units be made on various considerations and merits including manhours per tonne of cement.

For Central Manufacturers' Association,

J. R. BIRLA, President

ANNEXURE D

Bombay, the 7th September, 1987

President,

Cement Manufacturers' Association,
Express Bldg., Opp. Churchgate Rly. Station,
Bombay—400020.

Dear Sirs,

Sub : STRIKE NOTICE.

I propose to call a strike of cement workers in all cement factories, quarries, mines, offices all over India from the MID NIGHT OF MONDAY THE 12th OCTOBER 1987 for the reasons explained in the following ANNEXURE.

ANNEXURE

The Cement Manufacturers' Association scuttled the present arbitration proceedings by (resignation of) Shri A. L. Kapur the Nominee of Cement Manufacturers' Association, representing them on the Board of Arbitration on the eve of hearing of Interim Relief and subsequent nomination of the Retd. High Court Judge as their nominee on the Board instead of nominating a person from within the Industry and thereby giving a go by to the true spirit of arbitration and entangle the proceedings in legal technicalities. Respected Shri G. Ramanujam, the Nominee of the Federation has resigned from the Board of Arbitration in protest and in disgust against the attitude of the Cement Manufacturers' Association.

The Federation has therefore decided to achieve their just demands including Interim Relief by collective bargaining and by resorting to indefinite all India strike in the Cement Industry from the MID NIGHT OF MONDAY THE 12th OCTOBER 1987.

Yours faithfully,

H. N. TRIVEDI, President

ANNEXURE F

Bombay, the 21st December, 1987

President,

Cement Manufacturers' Association,

Express Bldg., Opp. Churchgate Rly. Station

Bombay-400 020.

Sub : STRIKE NOTICE

Dear Sir,

In view of inordinate delay in grant of Interim Relief to cement workers all over India, I am hereby authorised on behalf of INDIAN NATIONAL CEMENT "WORKERS" FEDERATION to serve on you the notice of indefinite all India general strike of cement workers in all cement factories, quarries, mines, offices all over India from MID NIGHT OF FRIDAY THE 22nd JANUARY 1988 till the same Interim Relief as paid to the employees in the Government public sector undertakings is granted to all cement workers, with effect from 1st July, 1986. The Cement Manufacturers' Association and the cement employers in the Cement Industry will be solely responsible for the costs and consequences of the strike. The reasons are briefly stated in the following Annexure :

ANNEXURE

The Indian National Cement Workers' Federation submitted the charter of demands including the demand for Interim Relief on 9th May, 1986. The agreement to refer the said demand to Board of Arbitrators was signed on 9th September, 1986. The Government referred the said demand to the Board of Arbitration on 18th October, 1986. The wages of the cement workers have been fixed in the past on the same lines as of the workmen in public sector undertaking from time to time ever since 1973.

Recently the workmen in the public sector undertakings have been granted Interim Relief varying between Rs. 100/- to Rs. 420/- per month on basic salary slabs, with effect from 1st January, 1986. Although the demand of the Indian National Cement Workers' Federation for interim relief is higher, the Federation is willing to accept the said Interim Relief as agreed to in the public sector undertakings. The Cement Manufacturers' Association and the employers in the Cement Industry are opposed to grant Interim Relief on the same lines and the workers who waited for past 18 months are tremendously agitated against non-co-operation and unsympathetic attitude of the Cement Manufacturers' Association and the cement employers. The cement workers have therefore unanimously decided to go on all India and definite in general strike in the Cement Industry from the MID NIGHT OF FRIDAY THE 22nd JANUARY, 1988.

Yours faithfully,

H. N. TRIVEDI, President,

c.c. to : (1) Hon'ble Shri Rajiv Gandhi, Prime Minister, Government of India.

(2) Hon'ble Shri P. N. Sangma, Union Labour Minister, N. D.

[No. L-29013/5/86-D, H (B)]

V. K. SHARMA, Desk Officer,

नयी दिल्ली, 3 अक्टूबर, 1988

सं.आ. 3081.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की प्राव 17 के अनुसरण में, केन्द्रीय सरकार सैंजसे राजस्थान स्टेट माइन्स एंड मिनेरल्स लि., उदयपुर के प्रबंधन से सम्बद्ध नियोजकों और उनके कामगारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, उदयपुर के पत्राद को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-9-88 को प्राप्त हुआ था।

New Delhi, the 3rd October, 1988

S.O. 3081.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Jaipur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. Rajasthan State Mines & Minerals Limited, Udaipur and their workmen, which was received by the Central Government on the 22nd September, 1988.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, JAIPUR

Case No. CIT-3/1984

Reference :

Government of India, Ministry of Labour, New Delhi, Order No. L-29012/1/83-DIII(B) dated 28-12-1983.

In the matter of an Industrial Dispute

BETWEEN

Shri Mubarak Khan S/o. Shri Chhotu Khan, Kalasahib Masjid, Kapas, Udaipur.

AND

Management of Rajasthan State Mines and Minerals Ltd. Udaipur.

PRESENT :

Sri P. S. Yadav, R.H.J.S.

For the applicant : Shri M. F. Baig.

For the Management : Shri V. P. Agarwal.

Date of Award : 13th July 1988.

AWARD

The Desk Officer, Government of India, Ministry of Labour and Rehabilitation vide their notification quoted above sent the following reference under Section 10(1)(d) of the Industrial Disputes Act, 1947, hereinafter referred to be the Act, to his Tribunal for adjudication:

"Whether the action of the management of Rajasthan State Mines and Minerals Ltd Udaipur in denying appointment to Shri Mubarak Khan, Casual Auto Electrician in their Thamar Kotra Mines on regular basis is justified? If not, to what relief the workman is entitled."

2. Having received this reference, notices by registered post were sent to the parties concerned. Shri Mubarak Khan S/o Shri Chhotu Khan, resident of

Udaipur submitted his statement of claim as follows : That the petitioner claimant was appointed as an Auto Electrician by Rajasthan State Mines and Mineral Ltd. Udaipur in June 1979. It was pleaded that the workman worked as an Auto Electrician in the underground mine. It was pleaded further that the petitioner (workman) was not made regular and was not given the requisite pay scale of the said post. Thus, he was denied appointment on regular basis. It was further complained that while he had been denied the regular appointment it was an unfair labour practice on the part of the non-petitioner company. It was also alleged that the juniors to him were appointed as regular auto electrician in the prescribed scale. In this connection, it was added that his educational qualifications were 8th class pass with I.T.I. It was contended that the petitioner had also worked for 240 days in a calendar year. In the end, it was stated that what to talk of making him regular he was ultimately not even kept as a casual labour. The following relief was sought for :

(क) यह कि प्राचीन श्रमिक को सर्वोत्तम एड्जुस्टमेंट सेवा में लिया गया था और सब लाभ दिये जायें जो प्राचीन श्रमिक को सेवा में रहते हुए मिलते।

(ख) यह कि अन्य राहतें जो श्रीमान जी न्याय की दृष्टि से उचित समझे दिलाया जायें।

3. On behalf of the opposite party, the reply to the statement of claim was filed by Shri S. S. Shaktawat, the then Dy. General Manager (Personnel) as follows: It was admitted that the petitioner was employed as a casual Auto Electrician but he was so appointed as and when, such a person was required in the establishment for casual nature of surplus work. The petitioner was appointed on daily rated basis. Initially, upto December 1980, his wages were Rs. 21.72 per day and he had been paid for the entire days he had actually worked. No payment used to be made for closed days and for weekly holidays. It was denied that there was any discrimination or victimisation.

It was also stated that it was wrong to say that any person junior to the petitioner was ever appointed in preference to the petitioner. It was pleaded that there is a regular procedure of appointment in the non-petitioner's company. The vacant posts are filled up by public advertisement in the news papers through a specified selection procedure. Any person who fulfils the qualification could apply but the petitioner did not apply following the required procedure. It was denied that the petitioner was in continuous service for more than one year. It was also denied that in order to adjust some one else, the petitioner was not given regular appointment. The petitioner had not worked for 240 days during a period of twelve calendar months preceding the date of removal i.e. 30-6-79. It was also pleaded that there was no need of giving one month's notice or pay in lieu of one month's notice. It was further stated that it was not a retrenchment but this is a case where the contract of employment came to an end as a result of its non-renewal. Thus, it was pleaded that the petitioner was not entitled to any relief prayed for. On the application of the petitioner, the Mines were inspected where the petitioner stated to have worked and an inspection note was prepared there. The petitioner was also examined in chief by his autho-

rised representative and the counsel for the non-petitioner cross-examined him.

4. On behalf of the Rajasthan State Mines and Mineral Ltd., Udaipur, an application has been filed and a preliminary objection has been raised that the dispute in the present case is not covered by the definition of 'Industrial Dispute' contained in Section 2(d) of the Act. Unless this dispute is raised by the union, this does not become an industrial dispute. It was also stated in the objection that the petitioner tried to camouflage his dispute by showing his termination as retrenchment but from the reference, it is clear that there is no dispute regarding the retrenchment of the petitioner. From the reference, it is evidently clear that it is a case of denial of giving regular appointment and the scale of that post. There is no mention of termination of service, not of retrenchment.

5. As the decision of the preliminary objection goes to the root of the case, that is, in case it is decided in favour of the non-petitioner it finally disposes of the reference. The preliminary objection is whether the dispute in the present case does not amount to an industrial dispute. Industrial dispute has been defined in Sec. 2(k) of the Act as follows :

"Industrial dispute means any dispute or difference between employer and employer or between employer and workman, or between workman & workman, which is connected with the employment or non employment or with the conditions of labour, of any person."

The another relevant provision is contained in Sec. 2(A) of the Act. Dismissal etc. of an individual workman any dispute or difference between that workman and his employer connected with or arising out of, such discharge, dismissal, retrenchment or termination shall be deemed to be an industrial dispute not withstanding that other workman or a union of a workman is a party to the dispute.

6. Considering the above definitions, we have to see whether this dispute is covered by Sec. 2(k) of the Act. From the reference itself, it is clear that the dispute was raised by petitioner Mubarak Khan himself. The dispute having not been sponsored by any union, it is a dispute raised by an individual. The language of the reference unequivocally suggests that the dispute is regarding the denial of appointment to the petitioner as a Auto Electrician on regular basis. So, it is a reference not regarding the dismissal or retrenchment; it only pertains to the regularisation of the service. The evidence which has hitherto been placed on record is regarding retrenchment which is not required to be considered because the reference itself does not speak of any retrenchment. I may also add when the petitioner workman was not in service at the relevant time, then, there arises no question of regularisation even. I am of the considered opinion that it was a dispute raised by an individual and the dispute is not regarding discharge, dismissal or retrenchment, than Section 2(k) of the Act is not attracted. Consequently, it is held that, the present dispute, in not covered by the definition of industrial dispute and therefore, the reference is bad in law and cannot proceed further. Non-petitioner has relied upon

Supreme Court Lab. J. equivalent of that is AIR 1963 page 318 (1961) II LLJ 436.

7. This being not an industrial dispute cannot proceed further. The petitioner is not entitled to any relief. Let the copy of the Award be sent to the Central Government for publication.

P. S. YADAV, Presiding Officer
[No. L-29012/1/83-D.III(B)]

का.मा. 3082.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स भारत गोल्ड माइन्स लि., ओरगांम पोस्ट, के.जी.एफ. के प्रबंधन से सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, सम्बंध में निम्नलिखित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, बंगलूर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 26-9-88 को प्राप्त हुआ था ।

S.O. 3082.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947) the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Bangalore, as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. Bharat Gold Mines Ltd., Oorgaum Pos., K.G.F. and their workmen which was received by the Central Government on the 26th September, 1988.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT BANGALORE

Dated, the 20th September, 1988

Central Reference No. 131/87

I PARTY

Shri P. Shanmugam,
S/o Mannar,
Drivers Line,
Marikuppam (Post),
K.G.F.

Vs.

II PARTY

Chairman-cum-Managing Director,
M/s. BGML Oorgaum Post,
K.G.F.

APPEARANCES:

For the I party—Shri K. Subba Rao, Advocate.

For the II party—Shri K. J. Shetty, Advocate.

AWARD

By exercising its powers under section 10(1)(d) of the I.D. Act, the Government of India, Ministry of Labour has made the present reference on the following point of reference by its order No. L-43012/6/77-D.III(B) dated 19th August, 1987.

POINT OF DISPUTE

"Whether the dismissal of Sri P. Shanmugam, Ex. Motor Attendant, Mysore Mine Mill, T. No. 6720 from the services from 6th

August, 1974 by the management of M/s. Bharat Gold Mine Ltd. (A Government of India Undertaking) is legal, proper and justified? If not, to what relief is the workman entitled?"

2. On notices being served on the parties they had appeared and filed their pleadings.

3. Additional issue No. 2 was raised as shown below :

Whether the reference is not maintainable as contended in para 1 of the counter statement?

4. Evidence was received, and parties were heard on the same.

5. By a considered order dated 2nd June, 1988 it has been held that the first party workman has chosen his forum and having obtained judgements in those Courts, he cannot re-agitate the same points, once again before this Tribunal. The parties were again heard as to why an award should not be passed accordingly.

6. The learned counsel for the first party did not make out any convincing point as to why an award should not be passed in pursuance to the said order on issue No. 2.

7. In the result, an award is passed to the effect that the management of BGML was justified in dismissing Sri P. Shanmugam T. No. 6720 from service with effect from 6th August, 1974 and that he is not entitled to any relief. The order dated 2nd June, 1988 on issue No. 2 shall form part of the award. It is enclosed.

(Dictated to the personal assistant taken down by her, got typed and corrected by me).

Sd/-

B. N. LALGE, Presiding Officer
ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT BANGALORE

Dated, the 2nd June, 1988

Central Reference No. 131/87

I PARTY

Sri P. Shanmugam,
S/o Mannar,
KGF.

Vs.

II PARTY

Chairman-Cum-Managing Director,
B.G.M.L.,
KGF.

ORDER ON PRELIMINARY ISSUE NO. 2

On notices being served on the parties, they have appeared and filed their pleadings.

2. In the claim statement, inter alia it has been contended that there was no valid enquiry against the

I party workman, and the order of dismissal passed against him is illegal. In para 6 of the claim statement he has further contended that the I party workman had filed a suit in O.S. No. 433/75 on the file of the learned Munsiff KGF, for a declaration that the order of dismissal dated 6th August, 1974 is illegal and void ab-initio and that the suit was dismissed on 27th June, 1978. It is then contended that he had filed a regular appeal at regular appeal No. 131/79 in the Court of the Civil Judge KGF, but it was dismissed on 17th March, 1983. He then contends that the regular second appeal 615/83 was filed before the Hon'ble High Court of Karnataka and by an order dated 23rd November, 1984 it was dismissed with liberty that he may raise conciliation proceedings under section 10 of the Industrial Disputes Act. It is further contended that thereafter the dispute was raised, but the conciliation failed to finally reference has been made. The I party has claimed the relief of re-instatement and consequential benefits.

3. In the counter statement filed by the second party, it has been contended inter-alia that since the suit, regular appeal and regular second appeal have been dismissed, he cannot maintain the reference and that the said point may be taken up as a preliminary issue.

4. In view of the said contentions preliminary issue No. 2 has been raised as follows :

Whether the reference is not maintainable as contended in para 1 of the counter statement?

5. The parties were called upon to produce their documents and argue the same. Both have produced their documents and they have been heard.

6. My finding on the said issue is that the I party workman cannot maintain the reference, since he has chosen the forum and already sought for the remedy permissible to him.

REASONS

7. The learned counsel for the I party contended before me that in the order passed of the Hon'ble High Court of Karnataka there is a direction that he can approach the authorities under the industrial disputes act. Certified copy of the judgement passed by the Hon'ble High Court of Karnataka in R.S.P. No. 615/1983 has been produced before me. The judgement reads as follows :

"Both the Courts have concurrently held that the plaintiff has failed to establish that the order of dismissal under the standing order is opposed to law. This is a finding of fact. I find no merit in this appeal and hence, it is dismissed.

Sd/-
JUDGE.
23-11-84"

8. The judgement of the Hon'ble High Court of Karnataka does not show that the I party has been provided with a further opportunity that he may raise an Industrial Dispute and re-agitate the same issues.

9. The learned counsel for the second party has produced the judgement of the Learned Munsiff KGF

in O.S. No. 433/75. The judgement is dated 27th June, 1978. In the said suit the following issues were framed.

- (1) Whether the accusation, enquiry and dismissal under the standing order is opposed to law and without authority?
- (2) Whether the order of dismissal dated 6th August, 1974 is illegal, void and in operative?

Thus it is shown that the validity of the enquiry and the order of dismissal were challenged and on a full-fledged hearing the said suit was dismissed. Thereafter the I party workman had filed an appeal in R.A. No. 31/79 before the learned Civil Judge KGF and the learned Civil Judge had raised the following three points for his consideration.

- (1) Whether the plaintiff has proved the accusation, enquiry, and dismissal order under the standing order is opposed to law and without authority?
- (2) Whether the orders of dismissal dated 6th August, 1974 is illegal, void and incorporative?
- (3) What reliefs?

On hearing the parties the appeal has been dismissed on merits and the judgement and degree passed by the Munsiff have been confirmed. It is thus obvious from both the judgements that the I party workman had chosen his own forum and he entertained all the grounds, that were available for him to challenge the order of dismissal. As observed earlier his regular second appeal also has been dismissed.

10. In the case of Sukhram Vs. State of Haryana (1982 LAB. I.C. Page 1282), it has been held that the dismissal of a workman gives rise to a dispute, which arises out of the rights or liabilities arising and accruing to him under the general or common law and even if the industrial disputes act is not on the statute book, the workman had the right to resort to the ordinary Civil Court for the redressal of his grievance in regard to his dismissal. It has been further laid down that under such circumstances the workman has two alternative remedies and he has the discretion to choose either of them and if he chooses one of them he cannot again claim to have the second remedy.

11. The learned counsel for the second party placed reliance the case of Premier Automobiles Limited Vs. Kamlakar Shantaram Wadke (AIR 1975 Supreme Court page 2238). The authority has laid down the following principle in regard to the jurisdiction of the Civil Court in such cases. "If the dispute is an Industrial Dispute arising out of a right or liability under the general common law and not under the Act, the jurisdiction of the Civil Court is alternative, leaving it to the discretion of the suiter concerned to choose his remedy for the relief which is competent to be granted". In view of the aforesaid two authorities and in the context of the three judgements placed before me, it is obvious that the I party workman cannot maintain the reference, he having chosen his forum once and having obtained the judgements from competent courts.

12. Since the parties have not been heard on the point as to why an award should not be passed in accordance with the finding on preliminary issue No. 2, I find that they should be given further opportunity of being heard.

13. In the result, it is held on preliminary issue No. 2, that the I party cannot maintain the reference. The parties are however called upon argue as to why an award should not be passed accordingly.

(Dictated to the personal assistant taken down by her, got typed and corrected by me).

Sd/-

R. N. LALGE, Presiding Officer
[No. L-43012/6/87-D.II(B)]

का.ग. 3083.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सैसमें भारत गोल्ड माइंस लि. ओरगाम, पोस्ट, के. जी. एफ. के प्रबंधन से संबंधित निम्नलिखित और उनके कर्मचारियों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक प्रतिक्रिया, बंगलूर के पंचाद को प्रकाशित करती है, जो केन्द्रीय सरकार को 26-9-88 को प्राप्त हुआ था।

S.O. 3083.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby, publishes the award of the Central Government Industrial Tribunal, as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. Bharat Gold Mines Ltd., Oorgaum Post, K.G.F., and their workmen, which was received by the Central Government on the 20th September, 1988.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT BANGALORE

Dated the 20th September

Central Reference No. 135/87

I PARTY

Shri Dorairaj,
Ex-Employee of
M/s. Bharat Gold Mines Limited,
K.G.F. T. No. 1664,
Door No. 254, ST Block,
Oorgaum Post, K.G.F
Vs.

II PARTY

The Chairman-cum-Managing
Director,
M/s. Bharat Gold Mines Limited,
Oorgaum Post,
K.G.F.

APPEARANCES:

For the I party—Mr. Y. Joyel Martin, Advocate
For the II party—Shri K. J. Shetty, Advocate

AWARD

By exercising its powers under Section 10(1)(d) and (2A) of the Industrial Disputes Act, 1947, the Government of India, Ministry of Labour has made the present reference on the following point of dispute by its Order No. L-43012/4/87-D.III(B) dated 19th August, 1987.

POINT OF REFERENCE

"Whether the action of the management of M/s. Bharat Gold Mines Ltd., K.G.F. in dismissing from service Shri Dorairaj, Ex-Hoistman, T. No. 1664 w.e.f. 6th November, 1979 is proper and justified? If not, to what relief is the workman entitled?"

2. The I party workman has filed his claim statement and inter alia he has contended as follows.

He was employed in the II party and he has worked for several years. He has been dismissed from service for no valid reason. It is alleged that he was in possession of gunny bags of the management. The domestic enquiry held against him is not valid. The management witness did not give any incriminating statement against him. The order may be set aside. The II party may be ordered to reinstate him with consequential benefits.

3. The II party has filed its counter statement and inter alia it is contended as follows.

He has been dismissed from service in 1979. He challenged the order of dismissal by a suit in the court of Munsiff, K.G.F. The suit was dismissed in 1984. He committed theft of employer's property. A domestic enquiry was held against him. The management accepted the findings and dismissed him from service. Since he had chosen his remedy in the court of the Munsiff, K.G.F. and he has obtained decree, he cannot re-agitate the issue. The reference may be rejected.

4. In view of the said pleadings, the following issue had been raised as a preliminary issue.

"Whether the reference is liable to be rejected for the reason that a suit filed by the I party workman in this connection in the court of Munsiff, K.G.F. has been dismissed?"

5. The second party has produced one order of the Court of the Munsiff KGF in O.S. No. 139/80. It is marked as Ex. M-1.

6. Both the parties were heard on the said issue and also on the point whether an award should be passed in pursuance to the finding on the said issue.

7. My finding on the said issue and point of reference are as follows.

Additional Issue : The reference is liable to be rejected, for the reason that the first party workman Dorairaj has chosen his forum in the Court of the Munsiff K.G.F.

POINT OF REFERENCE

8. The reference is liable to be rejected.

REASONS

9. The learned counsel for the second party referred to the case—law of the Sukhram and Premier automobiles of Limited as shown below.

In the case of Sukhram Vs. State of Haryana (1982 LAB. I.C. page 1282). It has been held that the dismissal of a workman gives rise to a dispute, which arises out of the rights or liabilities arising and accruing to him under the general or common law and even if the Industrial Disputes Act is not on the statute book, the workman had the right to resort to the ordinary Civil Court for the redressal of his grievance in regard to his dismissal. It has been further laid down that under such circumstances the workman has two alternative remedies and he has the discretion to choose either of them and if he chooses one of them he cannot again claim to have the second remedy.

10. The learned counsel for the second party placed reliance on the case of Premier Automobiles Limited Vs. Kamlakar Shantaram Wadke (AIR 1975 Supreme Court page 2238). The authority has laid down the following principle in regard to the jurisdiction of the Civil Court in such cases. "If the dispute is an Industrial Dispute arising out of a right or liability under the general common law and not under the Act, the jurisdiction of the Civil Court is alternative, leaving it to the discretion of the suiter concerned to choose his remedy for the relief which is competent to be granted".

11. The learned counsel for the first party strongly contended that no case of theft had been proved against the first party workman, that he is a very poor workman and that this Tribunal may hold that he is entitled for reinstatement and consequential benefits. In view of the aforesaid authorities, this Tribunal cannot enter into the merits of the case.

12. The order passed by the learned Munsiff K.G.F. in O.S. No. 139/80 at Ex. M-1 shows that the first party had filed the suit for the declaration that the order dated 16th November, 1979 passed by the second defendant, namely, the General Manager of the BGML purporting to dismiss him from service is illegal, void, in-operative and that he is entitled to be treated as on duty and that he is further entitled to all the rights, emoluments, etc. The matter had come up before the said court, for evidence as a last chance on 4th January, 1984. The learned Munsiff found that inspite of the last chance given to him, the plaintiff had remained absent and hence the suit was dismissed for default, on 4th January, 1984. There is no case of the first party workman that he had ever withdrawn the suit with the leave of the Court, so that he wanted to change the forum and raise an industrial dispute under the provisions of the Industrial Disputes Act. From the order passed in Ex. M-1, it is obvious that the first party, as a plaintiff, did not withdraw the suit under order 23 rule 1 C.P.C. so as to reserve his liberty to raise the present dispute through the conciliation process, and get it referred to this Tribunal. An ex-parte decree is all the same a decree of a competent Court of law and it binds the first party workman, unless and until it is set aside. In the context of the aforesaid facts and the said authorities, I find that the first party workman cannot re-agitate the same cause before this Tri-

bunal once again. The learned counsel for the first party did not make out any convincing ground as to why an award should not be passed since the workman had already chosen his forum and had failed in his suit.

13. In the result, an award is passed to the effect that the management of the BGML was justified in dismissing from service Sri Dorairaj T. No. 1664 with effect from 6th November, 1979 and he is not entitled to any relief.

Dictated to the personal assistant taken down by her, got typed and corrected by me).

B. N. LALGE, Presiding Officer

[No. 43012/4/87-D.III(B)]

का. आ. 3084.—औद्योगिक विवाद प्रभिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई.एस. आर्डी. कॉर्पोरेशन के प्रबंधन से संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक प्रतिक्रिया, अहमदाबाद के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार का 23-9-88 को प्राप्त हुआ था।

S.O. 3084.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Ahmedabad, as shown in the Annexure, in the industrial dispute between the employers in relation to the management of E.S.I. Corporation and their workmen, which was received by the Central Government on the 23rd September, 1988.

ANNEXURE

BEFORE SHRI G. S. BAROT, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL CENTRAL AT AHMEDABAD

Reference (ITC) No. 9 of 1981

ADJUDICATION

BETWEEN

The management of the E.S.I. Corporation

AND

Their workmen.

In the matter of termination of the service of Shri A. F. Ansari, Lower Division Clerk.

APPEARANCES :

Shri R. K. Shah with Nayanaben Dave—for the E.S.I. Corporation.

Shri N. R. Vanjani—for the workmen

AWARD

The Central Government, in exercise of the powers conferred by S. 7A and clause (d) of sub-section (1) of S. 10 of the Industrial Disputes Act, 1947 ("the Act" to be brief) constituted an Industrial Tribunal with the undersigned as the Presiding Officer, with headquarters at Ahmedabad, and referred for adjudication the dispute existing between the employers in relation to the management of the E.S.I. Corporation

and their workmen in respect of the matter specified in the Schedule annexed thereto, viz :—

"Whether the action of the Regional Director, E.S.I.C., ESIC Bhavan, Asnram Road, in terminating the employment of Shri A. F. Ansari, Lower Division Clerk, with effect from 27-5-1978 was legal and justified? If not, to what relief is the workman entitled?"

2. The facts of the case may be set out in brief. Shri A. F. Ansari (hereinafter to be referred to as "the workman concerned") was appointed as a Lower Division Clerk by the Regional Director, Employees' State Insurance Corporation (hereinafter to be referred to as "the Corporation") vide the later's Office Order dated 29-11-1976. It appears that the workman concerned had actually joined his duties with effect from 20-11-1976. It was a composite order appointing 16 persons including the workman concerned. The order stated that the persons were appointed on a purely temporary and ad-hoc basis for a short period not exceeding 90 days or till such time as they are replaced by regular employees, whichever is earlier. Then, by an order dated 16-2-1977 the Corporation terminated the services of the workman concerned along with others with effect from 15-2-1977. Thereafter by another order dated 16-2-1977, the Corporation again appointed the workman concerned (along with several others) as a Lower Division Clerk with effect from 17-2-1977, mentioning the same terms and conditions as mentioned in the earlier order and that appointment was also similarly terminated w.e.f. 13-5-77 by an order dated 12-5-1977. The workman concerned likewise happened to be appointed and terminated under identical orders till his services were finally dispensed with, with effect from 28-5-1978. Thus, he worked with the Corporation from 20-11-1976 to 27-5-1978 with breaks ranging from 1 to 5 days in between. No notice or compensation has admittedly been paid at the time of the final termination of service or any time thereafter.

3. The question that arises in the present case is whether the termination of the service of the workman concerned would amount to "retrenchment" within the meaning of the term as defined under S. 2(oo) as it stood at the relevant time, which was as under :—

"2(oo) "retrenchment" means the termination by the employer of the service of a workman for any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action, but does not include—

- (a) voluntary retirement of the workman; or
- (b) retirement of the workman on reaching the age of superannuation if the contract of employment between the employer and the workman concerned contains a stipulation in that behalf; or
- (c) termination of the service of a workman on the ground of continued ill health;"

Shri N. R. Vanjani appearing for the workman concerned has relied on a number of decisions of the Supreme Court and contended that the termination

of the service of the workman concerned in the present case would constitute "retrenchment" within the meaning of S. 2(oo) as it then stood and as the provisions of Sec. 25F of the Act were not complied, the termination would be illegal and inoperative. It is seen from the definition of the term "retrenchment" under S. 2(oo) that termination by the employer of the service of a workman for any reason whatsoever, except for the excluded situations viz (1) voluntary retirement (2) retirement on reaching the age of superannuation and (3) continued ill-health would constitute "retrenchment". In *The State Bank of India v. Shri N. Sundara Money* (1976-I, L.L.J., 478), the Hon'ble Supreme Court observed :—

"Termination . . . for any reason whatsoever are the key words. Whatever the reason, every termination spells retrenchment. So the sole question is—has the employee's service been terminated? Verbal apparel apart, the substance is decisive. A termination takes place where a term expires either by the active step of the master or the running out of the stipulated term. To protect the weak against the strong this policy of comprehensive definition has been effectuated
* * * *"

Of course, in order to provide for the situations which the Hon'ble Supreme Court had held as not covered by the definition of the expression "retrenchment", the Parliament added S. 25FF and S. 25FFF providing for the payment of compensation to the workmen in case of transfer of undertakings and in case of closure of undertakings respectively. In this connection, the followig observations of the Hon'ble Supreme Court in *Santosh Gupta v. State Bank of India* (1980-II, L.L.J. 72 at p. 74) are noteworthy :—

"If the definition of "retrenchment" is looked at unaided and unhampered by precedent, one is at once struck by the remarkably wide language employed and particularly by the use of the words "termination . . . for any reason whatsoever". The definition expressly excludes termination of service as a "punishment inflicted by way of disciplinary action". The definition does not include, so it expressly says, voluntary retirement of the workman or retrenchment of the workman on reaching the age of superannuation or termination of the service of the workmen on the ground of continuous ill-health. Voluntary retirement of a workman or retrenchment of the workman on reaching the age of superannuation can hardly be described as termination, by the employer, of the service of a workman. Yet the Legislature took special care to mention that they were not included within the meaning of "termination by the employer of the service of a workman for any reason whatsoever". This, in our opinion, emphasizes the broad interpretation to be given to the expression "retrenchment". In our view if due weight is given to the words "the termination by the employer of the service of a workman for "for any reason whatsoever" are understood any reason whatsoever" and if the

words to even what they plainly say it is difficult to escape the conclusion that the expression "retrenchment" must include every termination of the service of a workman by the act of the employer"

It was however, argued by Nayabahan Dave appearing for the Corporation that in the present case as mentioned in the various appointment orders, the appointment every time was on a purely temporary and ad-hoc basis for a short period not exceeding 90 days or till such time as the candidates were replaced by regular Lower Division Clerks, whichever is earlier. It was contended that as per the Employees' State Insurance Corporation (Recruitment) Regulations, 1965, he was given three opportunities to pass the test for being absorbed as a regular Lower Division Clerk but he could not pass the test and therefore his services could not be continued further. It was further argued by Smt. Dave that no grievance was made by the workman concerned when his services were terminated about 6 or 7 times because the termination each time was as per the terms of the letter of appointment. In view of all these, it was argued that the termination of the workman concerned was perfectly legal and proper. However, what is tried to be shown by the above arguments is that the contract of employment has been terminated under a stipulation in that behalf in the contract itself. It is relevant to note here that the said S. 2(oo) has been amended by Act No. 49 of 1984 which came into effect from 24-10-1984. In the said amendment a new sub-clause viz. sub-clause (bb) has been inserted after sub-clause (b), as follows:—

"(bb) termination of the service of the workman as a result of the non-renewal of the contract of employment between the employer and the workman concerned on its expiry or of such contract being terminated under a stipulation in that behalf contained therein; or"

Thus, after the insertion of the above sub-clause (bb) the following have been excluded from the ambit of the definition of "retrenchment":—

- (i) termination of the service of a workman as a result of the non-renewal of the contract of employment between the employer and the workman concerned on its expiry, and
- (ii) the termination of the contract of employment in terms of a stipulation contained in the contract of employment.

However, the very fact that Parliament found it necessary to insert the sub-clause (bb) as above, shows that before its insertion the position was that the termination covered by the situations (i) and (ii) above constituted "retrenchment" within the meaning of S. 2(oo). Therefore, I do not find any substance in the arguments of Smt. Dave. Moreover, in the case of *Santosh Gupta v. State Bank of India* referred to above, the circumstances were more or less similar. There also the workman concerned had been discharged on the ground that she failed to pass the prescribed test provided for confirmation in service. But the Hon'ble Supreme Court held therein that the said

discharge was "retrenchment" within the meaning of S. 2(oo).

4. From the above discussions, it is very clear that the termination of the service of the workman concerned with effect from 27-5-1978 (A.N.) would amount to "retrenchment" within the meaning of the term as defined in S. 2(oo) of the Act.

5. And when there is retrenchment, the conditions precedent to retrenchment have to be fulfilled. The said conditions have been laid down in S. 25F, (as it stood at the relevant time) as under :—

"25F No workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by the employer until—

- (a) the workman has been given one month's notice in writing indicating the reasons for detrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice, wages for the period of the notice :

Provided that no such notice shall be necessary, if the retrenchment is under an agreement which specifies a date for termination of service;

- (b) the workman has been paid, at the time of retrenchment, compensation which shall be equivalent to fifteen days' average pay for every completed year of continuous service or any part thereof in excess of six months; and

- (c) notice in the prescribed manner is served on the appropriate Government for such authority as may be specified by the appropriate Government by notification in the official gazette".

However, in order to attract the provisions of S. 25F, the workman should have been in continuous service for not less than one year under the employer. Now, what is intended by "continuous service" has been laid down in S. 25B, the relevant portion of which is reproduced below :—

"25B For the purposes of this Chapter—

- (1) a workman shall be said to be in continuous service for a period if he is, for that period, in uninterrupted service, including service which may be interrupted on account of sickness or authorised leave or an accident or a strike which is not illegal, or a lock-out or a cessation of work which is not due to any fault on the part of the workman;

- (2) where a workman is not in continuous service within the meaning of clause (1) for a period of one year of six months, he shall be deemed to be in continuous service under an employer—

- (a) for a period of one year if the workman, during a period of twelve calendar months preceding the date with reference to which calculation is to be made, has

actually worked under the employer for not less than—

- (i) one hundred and ninety days in the case of a workman employed below ground in a mine; and
- (ii) two hundred and forty days, in any other case.

Therefore, so far as the present case is concerned, the workman should have actually worked under the employer for not less than 240 days in order to attract the provisions of S. 25F. Now a cursory glance at the Service Book of the workman concerned produced on record (Ex. 10) shows that except for small breaks of, in all, 9 days, he has worked all throughout the period of twelve calendar months preceding the date of termination of his service. Thus, there is no doubt that he has actually worked for not less than 240 days during the said period of twelve calendar months. Now, when the provisions of S. 25F apply, two conditions should have been fulfilled if it is to be a valid retrenchment. The first is one month's notice or wages for one month in lieu of notice, and the second, compensation equivalent to 15 days' average pay for every completed year of continuance service or any part thereof in excess of six months. However, the proviso to S. 25F which was there at the relevant time says that no notice was necessary if the retrenchment is under an agreement which specifies a date of termination of service. Looking to the language of the appointment orders issued in the present case, one month's notice may not have been necessary but there was no escape from payment of compensation equivalent to 15 days average pay for the completed year of service. Admittedly, no such compensation has been paid in the present case which is a condition precedent for a valid retrenchment. The impugned order of termination of service of the workman concerned is, therefore, illegal and inoperative.

6. When the retrenchment is held to be illegal, the normal relief to be granted would be reinstatement with full back wages. However, it is now well settled that it is not necessary in all cases to direct reinstatement. The Tribunal is required to decide the question of reinstatement and/or compensation in the light of facts and circumstances of each case. As held by the Hon'ble Supreme Court in *Surendra Kumar Verma* (1981-1, L.L.J. 386), there may be exceptional circumstances which make it impossible or wholly inequitable vis-a-vis the employer and the workman to direct reinstatement with full back wages. Bearing in mind this position of law, we have to decide the nature of relief in the present case. It is not disputed herein that for regular appointment as a Lower Division Clerk in the Corporation, a candidate has to pass the open competitive examination as per the Recruitment Regulations applicable to the Corporation. There is also no dispute that the workman concerned could not pass the said examination although three opportunities were given to him for the purpose. In his deposition (Ex. 33) the workman concerned has admitted that when he failed in his last attempt, he had attained 25 years of age. It appears that no candidate who had attained the age of 23 years can be considered for regular appointment in the Corporation. Thus, he

was not only not qualified for the post (not having passed the required examination) but he had also crossed the maximum age limit when his services were terminated. Thus, if he is directed to be reinstated now, he would be a workman who is not qualified for the post and who was already over-age not now but in May, 1978, when his services were terminated. This would create an anomalous position in the establishment of the Corporation. In my opinion, therefore, directing reinstatement of the workman concerned in the circumstances of this case would be wholly inequitable. The proper course in the present case would be to direct payment of suitable compensation. So far as the quantum of compensation is concerned, again the fact that the workman concerned could not pass the requisite examination even at the third trial would have also to be borne in mind. Considering all the facts and circumstances of this case, I think the ends of justice would be met if he is granted as compensation 75 per cent of back wages.

7. For the foregoing reasons, it is directed that the Corporation shall pay to the workman concerned by way of compensation, 75 per cent of the wages which he would have earned had his services not been terminated, from the date of termination of his service till the date of this Award. For the purpose of this calculation, he should be deemed to be in uninterrupted service for the whole period. I also direct the Corporation to pay a sum of Rs. 250 by way of costs to the workman concerned. The amounts to be paid to the workman concerned under these directions shall be paid to him within 3 months from the date of publication of this Award.

Sd/-

G. S. BAROT, Presiding Officer

[No. L-15012/3/80-D. II(B)/D. III(R)]

Sd/-

S. M. NAYAK, Secy.

Ahmedabad :

Dated : 14th September, 1988.

का. भा. 3085.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सैस राजस्थान राज्य खान एवं खनिज लि. उदयपुर के प्रबंधन से संबंधित नियोजकों और उनके कर्मचारियों के बीच अनुबंध में निदिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, जयपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-9-88 को प्राप्त हुआ था।

S.O. 3085.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Jaipur, as shown in the annexure, in the industrial dispute between the employers in relation to the management of M/s. Rajasthan State Mines & Minerals Limited, Udaipur and their workmen, which was received by the Central Government on the 22nd September, 1988.

केन्द्रीय औद्योगिक न्यायाधिकरण जयपुर।

केस नं. सी. आई. टी. 41/87

केन्द्रीय सरकार, धर्म मंत्रालय की अधिसूचना संख्या।

एल-29012/18/85-डी-3(बी) दिनांक 8-7-87

महामन्त्रि, राजस्थान राज्य खान एवं खनिज कर्मचारी संघ, चण्डीमाला की धर्मशाला के नजदीक, उदयपुर।

— यूनियन

वनाम

प्रबंध निदेशक, सैस राजस्थान राज्य खान एवं खनिज, 133, सहेली मार्ग, उदयपुर।

— नियोजक

उपस्थिति

माननीय न्यायाधीश श्री प्रताप सिंह यादव, आर. एच. जे. एर.

यूनियन की ओर से :	श्री जे. एस. शाह एवं श्री महेंद्र सिंह खेमरा
नियोजक की ओर से :	श्री बी. पी. अग्रवाल एवं श्री पी. आर. माथुर।
दिनांक एवमार्क :	12-5-88

अवार्ड

केन्द्रीय सरकार ने निम्नलिखित विवाद इस न्यायाधिकरण को अपनी अधिसूचना सं. एम-29012/18/85-डी-III(बी) दिनांक 8-7-87 के द्वारा औद्योगिक विवाद अधिनियम, 1947 की धारा-10(1)डी एवं सब-संशोधन (2ए) के अंतर्गत अधिनियम हेतु प्रेषित किया है:—

“क्या सैस राजस्थान राज्य खान एवं खनिज लि., उदयपुर द्वारा श्री रतन लाल यादव के पदमान को ट्रेसर से बदलकर फॅरीट्रर व ट्रेसर “स” किया जाना न्यायोचित है जिसके परिणामस्वरूप अति हुई पदोन्नतियों के अक्षर सीमित हो गए हैं? यदि हां, तो कर्मकार किस अनुसंधान का हकदार है?”

2. भारत सरकार से यह निर्देशन प्राप्त होने के पश्चात् उभ पक्षकारण को नोटिस जरिये पंजीकृत डाक दिया गया प्रार्थी यूनियन की ओर से प्रार्थी यूनियन राजस्थान स्टेट माईन्स एवं मिनेरल्स कर्मचारी संघ की ओर से श्री महेंद्र सिंह खेमरा उपस्थित आये जिन्होंने स्टेटमेंट आफ क्लेम प्रस्तुत करने की अपेक्षा यह तहरीर से लिखकर दिया। यह कि अमिक रतनलाल जिसके पक्ष परिवर्तन के संबंध में यह विवाद उठाया गया था कि सेवार्थ विपक्षी संस्थान से समाप्त हो चुकी हैं श्री रतनलाल यादव उदयपुर छोड़कर बाहर चला गया और वह इस विवाद में रुकी नहीं ले रहा है अतः यूनियन के अध्यक्ष ने प्रार्थना की इस विवाद में नो डिस्म्यूट अवार्ड पारित कर दिया जाये। श्री बी पी अग्रवाल राजस्थान माईन्स एवं मिनेरल्स, उदयपुर ने इस विवाद के संबंध में नो डिस्म्यूट अवार्ड पारित करने के बारे में कोई एतराज नहीं होना व्यक्त किया क्योंकि अध्यक्ष, राजस्थान स्टेट माईन्स कर्मचारी संघ, उदयपुर ने जिसके द्वारा श्री रतन लाल यादव का केस एम्पोज किया था में कोई विवाद शेष नहीं का आदेश पारित किये जाने की प्रार्थना की है। इससे यह स्पष्ट है कि इस प्रकरण में कोई विवाद शेष नहीं रहा अतः नो डिस्म्यूट अवार्ड पारित किया जाता है। पंचाट की प्रति अंतर्गत धारा 17(ए) औद्योगिक विवाद अधिनियम भारत सरकार धर्म मंत्रालय के धर्म सूचना एवं प्रकाशनार्थ भेजा जाये।

[सं. एल. 29012/18/85-डी-III(बी)]

प्रताप सिंह यादव, न्यायाधीश

बी. कु. शर्मा, डेस्क अधिकारी

तई दिनांक, 28 नवम्बर, 1988

का. भा. 3086.—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए उपयोग) नियम, 1976 के नियम 10 के उपनियम (4) के अनुसरण में, कर्मचारी अधिष्ठान निधि संगठन, जो धर्म मंत्रालय के अधीन एक स्वायत्त निकाय है, के निम्नलिखित कार्यालयों के, जिनके कर्मचारियों

ने हिन्दी का कार्यसाधक ज्ञान अजित कर दिया है, सभी को चेपित करनी है, यहाँ :-

1. उपक्षेत्रीय कार्यालय, करनाल (हरियाणा)
2. उपक्षेत्रीय कार्यालय, बबनपुर (मध्य प्रदेश)
3. उपक्षेत्रीय कार्यालय, पणजी (गोवा)
4. उपक्षेत्रीय कार्यालय, उदुपूर (राजस्थान)
5. उपक्षेत्रीय कार्यालय, आगरा (उत्तर प्रदेश)
6. उपक्षेत्रीय कार्यालय, देहरादून (उत्तर प्रदेश)
7. उपक्षेत्रीय कार्यालय, बड़ौदा (गुजरात)
8. उपक्षेत्रीय कार्यालय, त्रिशाखापनम् (आन्ध्र प्रदेश)
9. उपक्षेत्रीय कार्यालय, पोर्ट ब्लेयर (अन्धमान और निकोबार द्वीप)

[ई. 11011/1/88-एस.एस. III]

मीना गुप्ता, निदेशक

New Delhi, the 28th September, 1988

S.O. 3086.—In pursuance of sub-rule (4) of rule 10 of the Official Language (Use for Official Purposes of the Union) Rules, 1976, the Central Government hereby notifies the names of the following offices of the Employees Provident Fund Organisation, an autonomous body under the Ministry of Labour, whose staff have acquired a working knowledge of Hindi, namely :—

1. Sub-Regional Office, Karnal (Haryana).
2. Sub-Regional Office, Jabalpur (Madhya Pradesh).
3. Sub-Regional Office, Panaji (Goa).
4. Sub-Regional Office, Udaipur (Rajasthan).
5. Sub-Regional Office, Agra (Uttar Pradesh).
6. Sub-Regional Office, Dehradun (Uttar Pradesh).
7. Sub-Regional Office, Baroda (Gujarat).
8. Sub-Regional Office, Visakhapatnam (Andhra Pradesh).
9. Sub-Regional Office, Port Blair (Andaman and Nicobar Islands).

[No. E-11011/1/88-SS. III]
MEENA GUPTA, Director.

नई दिल्ली, 3 अक्टूबर, 1988

क्र.आ. 3087.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अन्तर्गत में, केन्द्रीय सरकार, मै. भारत कोकिंग कोल लि. का लोयाबाद कोक प्लांट के प्रबन्धन से सम्बन्धित नियोजकों और उनके कर्मचारियों के बीच, अग्रबन्ध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिग्रहण (सं. 2), धनबाद के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-9-88 को प्राप्त हुआ था।

New Delhi, the 3rd October, 1988

S.O. 3087.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, (No. 2), Dhanbad as shown in the Annexure in the industrial dispute between the employers in relation to the Loyabad Coke Plant of M/s. Bharat Coking Coal Limited and their workmen, which was received by the Central Government on the 16th September, 1988.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

Reference No. 234 of 1987

In the matter of an industrial dispute under Sections 10(1)(d) of the I. D. Act, 1947

PARTIES :

Employers in relation to the management of Loyabad Coke Plant of M/s. Bharat Coking Coal Ltd. and their workmen.

APPEARANCES :

On behalf of the workmen : Shri B. K. Ghose, Member, Executive Committee, Janta Mazdoor Sangh.

On behalf of the employers : Shri G. Prasad, Advocate.
STATE : Bihar. INDUSTRY : Coal.

Dhanbad, the 6th September, 1988

AWARD

The Government of India, Ministry of Labour in exercise of the powers conferred on them under Section 10(1)(d) of the I. D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-24012 (192)/86-D. IV(B), dated, the 1st August, 1987.

THE SCHEDULE

"Whether the demand of Janta Mazdoor Sangh to regularise Sri Babban Singh, Assistant Cashier of Loyabad Coke Plant of M/s. BCC Ltd., P. O. Bansjora, Distt. Dhanbad as Cashier in Clerical Grade-I is justified? If not, to what relief the workman concerned is entitled?"

In this reference only the workman filed their W. S. Thereafter several adjournments were granted to the employers for filing their W. S. But subsequently when the case was fixed for filing W. S. by the employers, both the parties appeared before me and filed a Petition of compromise I heard the parties on the said petition of compromise and I do find that the terms contained therein are fair, proper and beneficial to both the parties. Accordingly I accept the same and pass an Award in terms of the compromise petition which forms part of the Award as Annexure.

I. N. SINHA, Presiding Officer.
[No. L-24012/192/86-D-IV (B)/D. IV (A)]

ANNEXURE SIJUA ARFA BCCL

To,

The Presiding Officer,

Central Government Industrial Tribunal-II

Reference No. 234/87

Employers in relation to the management of Loyabad Coke Plant of M/s. BCCL.

AND

Their workman (represented by J.M.S.)

Petition of Compromise

The humble petition on behalf of the parties aforesaid most respectfully sheweth.

1. That without prejudice to the respective contentions of the parties to the reference the dispute has been amicably settled on the following terms :—

Terms of settlement

- (a) That Sri Babban Singh Cashier has already been promoted as Cashier in Grade I.
- (b) That Sri Babban Singh will be given notional seniority from 1-1-1985.
- (c) That Sri Babban Singh will not claim any back wages from 1-1-1986.
- (d) That the settlement is fair and proper.

Under the facts and circumstances stated above the Hon'ble Tribunal will be graciously pleased to accept the settlement as fair and proper and be pleased to pass the Award in terms of the settlement.

For the workman

For employer

(1) Sd/- Illegible.

Limited for payment of wages to the Wagon Loaders, listed in the Annexure below, for the period from 9-2-1982 to 9-7-1982 is justified? If so to what relief are the said workmen entitled?"

Sd./- Babban Singh.

(2) Sd/- Illegible.

Witnesses :—

ANNEXURE

(1) Sri G. N. Srivastav, P.A. Sijua.

Sd./-

(2) Sd/- Illegible.

Illegible

RAMESHWAR SINGH, Presiding Officer.

नई दिल्ली, 3 अक्टूबर, 1988

का.आ. 3088.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसूच में, केन्द्रीय सरकार, मै. भारत कोकिंग कोल का चोतेदीह कोलियरी के प्रबन्धन से सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निश्चित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण (सं. 1), धनबाद के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-9-88 को प्राप्त हुआ था।

New Delhi, the 3rd October, 1988

S.O. 3088.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (4 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal (No. 1) Dhanbad, as shown in the Annexure in the industrial dispute between the employers in relation to the Choitedih Colliery of M/s. Bharat Coking Coal Limited and their workmen, which was received by the Central Government on the 16th September, 1988.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of a reference under section 10(1)(d) of the Industrial Disputes Act, 1947.

Reference No. 71 of 1983

PARTIES :

Employers in relation to the management of Katras-Choitedih Colliery of Messrs Bharat Coking Coal Limited.

AND

Their Workmen

APPEARANCES :

For the Employers.—Shri B. Joshi, Advocate.

For the Workmen.—Shri A. Banerjee, Advocate.

STATE : Bihar.

INDUSTRY : Coal.

Dated, the 26th August, 1988

AWARD

By Order No. L-20012(158)/83-D.III(A), dated, the 29th September, 1983 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute to this Tribunal for adjudication :

"Whether the demand of the workmen of Katras-Choitedih Colliery of Messrs Bharat Coking Coal

Sl. No. Name of the workmen

1. Shri Arjun Bhua
2. „ Kaila Bhauia
3. „ Ramsarup Nunia
4. „ Jagdee Nunia
5. „ Br. Rambrichh Nunia
6. „ Sohaith Nunia
7. „ Rampal Nunia
8. „ Rupa Nunia
9. „ Krishna Nunia
10. „ Gyanl Nunia
11. „ Harman Nunia
12. „ Puran Ansari
13. „ Bhagirath Kumbha
14. „ Rameshwar Kahar
15. „ Janki Nunia
16. „ Ramlal
17. „ Ramprith Nunia
18. „ Ganga Nunia
19. „ Br. Ramdas Nunia
20. „ Ramprabesh Nunia
21. „ Saisaran Nunia
22. „ Ch. Rambrichh Nunia
23. „ Bandela Nunia
24. „ Prithwi Nunia
25. „ Ramjhu Nalha
26. „ Brihaspati Nunia
27. „ Krishna Bhua
28. „ Tenka Bhua
29. „ Januha Bhua
30. „ Tilak Bhua
31. „ Tilak Bhua
32. „ Guljar Bhua
33. „ Dayal Rajwar
34. „ Chainia Rajwar
35. „ Nande Rajwar
36. „ Lakhia Nunia
37. „ Matla Manjhi
38. „ Jagdish Bhua
39. „ Bachu Bhua
40. „ Bhola Bourl
41. „ Birju Bhua
42. „ Harbash Gope
43. „ Ramlagan Nunia
44. „ Dwarik Nunia
45. „ Bachu Nunia
46. „ Jhalu Chamar
47. „ Dalari Nunia
48. „ Dandegar Bhua
49. „ Br. Sindeswari Bhua
50. „ Menbhola Bhua
51. „ Sinda Nohia
52. „ Bhdhuswari
53. „ Br. Rameshanera Nonia
54. „ Ranhdes Bangali
55. Smt. Sashwa Nenuan
56. „ Girija Nenuan
57. „ Sanwa Nenuan
58. „ Galabati Nenuan

Sl. No. Name of the workmen

59. Smt. Jesoda Nenuan
60. „ Sitwa Nenuan
61. „ Br. Dulari
62. „ Gharwarni
63. „ Bharati Bhuini
64. „ Mahani Nunian
65. „ Keshami Rajwar
66. „ Sugia Bhuian
67. „ Saratia Nunian
68. „ Buhhia Nunian
69. „ Kasmani Nunian.

2. The case of the concerned workmen, briefly stated, is as follows :

The concerned workman have been in employment as Wagon Loader from before nationalisation of collieries and they completed 240 days attendance within the year 1980 and hence they cannot be treated as casual workman. They were transferred by the management from Katras-Chaitudih colliery of Area No. III to Sijua Area IV against the provisions of certified Standing Order of M/s. B.C.C.Ltd. No reason was assigned as regards the exigencies of transfer from one colliery to another. Besides no transport facilities were provided to them to cover distance of 12 K. M. from Katras-Chaitudih colliery to Sijua Area. The transfer was purely arbitrary exercise of the power by the management and unnecessary harassment to the workmen. At first they were transferred to Sijua Area by Office Order dated 28-1-1982 of the Personnel Manager, Karmik Bhawan and they were released from duty with effect from 9-2-1982. Thereupon by cancelling the said order they were transferred to Govindpur Area by order dated 24-6-1982. General Manager, Govindpur Area by his letter dated 26-6-82 informed the Personnel Manager, that there was no requirement of wagon loaders in any of the collieries in Area No. III and that if they were taken some industrial problem might ensue. The concerned workmen through their union made a representation to the Personnel Manager on 27-6-82 about illegal transfer and informed that otherwise they would have to resort to hunger strike. In reply to the representation, the Dy. Personnel Manager by letter dated 29-6-82 informed the union to wait for the decision of the Head Quarter. Thereupon the Personnel Manager by letter dated 30-6-82 informed the Secretary of the union to advise the workmen to join Akhashinari colliery of Area No. III with effect from 1-7-1982. But no Office Order was either issued or communicated to them. Thereafter by Office Order dated 5-7-82 the Agent of Katras Chaitudih Colliery released the workmen numbering 58 to join Govindpur Colliery in Area No. III with immediate effect and the workmen concerned accordingly reported to them for duty on 8-7-82. It is apparent fact that the order of transfer of the concerned workman were totally illegal and unjustified. The concerned workmen were not allowed to join the transferee colliery by the management. They never wilfully neglected to report for their duties as per order of transfer, but the order of transfer could not be given effect to due to administrative difficulties of the management. Since they have already completed the required days of attendance for becoming permanent, they shall be deemed to have become permanent according to the rules of the management. They are also legally entitled to their wages for the period from 9-2-82 to 9-7-82.

3. The case of the management, details apart, is as follows :

The concerned workman numbering 69 remained absent from their duties offered to them during the period from 9-2-82 to 9-7-82 and therefore they are not entitled to wages for the above period. The concerned workmen were casual wagon loader of Kallas Chaitudih Colliery. They were employed according to requirement of the management and as such they had no right to claim for regular duties. Due to non-availability of sufficient work in Katras Chaitudih Colliery the management found it difficult to keep a large number of casual wagon loaders in its "casual pool". The manage-

ment on humanitarian grounds transferred the concerned workmen by letter dated 28-1-82 to Sijua and released them from duty from 9-2-82 by letter dated 4-2-82. But they did not report for their duties at new place and sat idle from 9-2-82 at their own volition. Some of their co-workers received the letters of transfer and joined their duties. But the concerned workman avoided to receive the release order. In the meantime the union took up their dispute and were convinced that workers were unwilling to go to Sijua Area and they rather preferred to go to Govindpur Area. At the request of the trade unions, the management re-transferred the concerned workmen to Govindpur Area where they joined and started working. They preferred to remain idle from 9-2-82 to 9-7-82 for getting themselves transferred to their place of choice and avoided to receive necessary letters and thereby created problems for the management. In the circumstances, it has been prayed that the demand of the concerned workmen be rejected.

4. In the rejoinder to the written statement of the management the concerned workmen have asserted that they are permanent employees of the colliery. They have denied the allegation that they have avoided to receive the release order. They have also denied that they were not willing to join their new place of posting.

5. In the rejoinder to the written statement of the workmen, the management has denied that the concerned workmen had put in 240 days of attendance in any calendar year. The transfer of the workmen from one colliery to another is an inherent and statutory right of the management. The management has not accepted the obligation of providing quarters to workmen at the collieries and is paying house rent as per NCWA-III. By letter dated 28-82 the concerned workmen were transferred to Sijua Area, but they avoided to accept the order of transfer and remained absent from duty. At the request of the union they were transferred to Govindpur Area although there was no vacancy. It is alleged that the concerned workmen wilfully neglected to report for duties as per the order of transfer and release order to Sijua Area.

6. The concerned workmen have examined three witnesses, namely, WW-1 Janki Noonina, WW-2 Karan Noonina and WW-3 Nanda Noonina. They have not laid documentary evidence although they have filed certain documents as Annexure-I to Annexure-VIII. The management, on the other hand, has examined one witness, namely, MW-1 Sambhu Nath Verma posted as Manager in Katras-Chaitudih colliery since April, 1985 and laid in evidence a sheaf of documents which have been marked Exts. M-1 to M-4.

7. Admittedly, the concerned workmen were formerly engaged as wagon loaders in Katras-Chaitudih colliery of M/s B.C.C. Ltd. It is the contention of the management that all of them were casual wagon loaders while the concerned workmen have asserted that all of them have become permanent by reason of their having completed 240 days of attendance in a calendar year. It is to be pointed out here that none of the concerned workmen has examined themselves in this case. WW-1 Janki Noonina, WW-1 Karan Noonina and WW-3 Nandu Noonina are all workmen of Katras-Chaitudih colliery. It appears that these witnesses have claimed that the concerned workmen were permanent workmen of the colliery. But not a whit of document has been filed by the concerned workmen in support of this claim. They have not examined any of them to vouch for the fact that they were permanent workmen of the colliery. On the other hand, MW-1 Sambhu Nath Verma has been posted as Manager at Katras Chaitudih Colliery since April, 1985 and prior to that he was posted in the same colliery as Asst. Manager since 1980. He has stated that all the concerned workmen were casual wagon loader and that the colliery used to maintain separate Form B Register for casual wagon loaders and for permanent wagon loaders. He has proved Form B register for permanent wagon loaders marked Ext. M-1 and casual wagon loaders marked Ext. M-1/1. The names of the concerned workmen appear in the Form B Register for casual wagon loaders.

8. Shri A. Banerjee, Advocate, for the concerned workmen has contended that these registers are manufactured since

they do not contain either the signature or thumb impression of all the workmen listed therein. It is very difficult to agree with the contention of Shri Banerjee. It may be that some columns of the register have remained blank but this does not necessarily indicate that the registers are manufactured. Anyway, from the evidence on record it is very difficult to come to the conclusion that the concerned workmen were permanent wagon loader. I consider that this aspect of the dispute need detain us for the main issue involved in this case is whether the concerned workmen are entitled to get payment of wages for the period from 9-2-82 to 9-7-82.

9. It is not the case of the management that since no work was available the concerned workmen were not allotted any job during the period in question. On the other hand, the case of the management is that the concerned workmen were transferred from Katras-Choutidih colliery to Sijua Area by letter dated 21-8-82 and that they were released from duty from 9-2-1982. These facts are not disputed. On the other hand, Office Order dated 28-1-82 (Ext. M-2) establishes the fact that as many as 89 workmen including 73 workmen of Katras-Choutidih colliery were transferred to Sijua Area in their existing capacity and on the same terms and conditions of service as presently applicable to them. These 73 workmen of Katras-Choutidih Colliery include the concerned workmen. There is no dispute that the 73 workmen of Katras Choutidih Colliery was directed to join Nitchitpur Colliery in Sijua Area by the Area Office. Sri Banerjee has contended that such transfer was not necessary and that no quarter was provided to the workmen. But the position is that the workmen may be transferred due to exigencies of work from one department to another or from one station to another or from one coal mine to another under the same ownership provided that the pay, grade, continuity and other conditions of service of the workmen are not adversely affected by such transfer. However, it appears that out of 73 wagon loaders 15 workmen joined their duties at Nitchitpur Colliery, but 58 other workmen did not. It has been claimed by the concerned workmen that all of them reported for duty at Nitchitpur colliery, but they were not allowed to join there. The witness for the concerned workmen have stated that 58 workmen were not allowed to join Nitchitpur colliery. On the other hand, MW-1 Sambhu Nath Verma has stated emphatically that these 58 workmen did not join their duties at Nitchitpur Colliery. It remains inexplicable as to why these 58 workmen could not join their duty at Nitchitpur Colliery while 15 of their co-workers joined there. The management has stated that they were not willing to join Nitchitpur colliery and started agitating over the matter. That there was some sort of agitation over the matter is revealed from the letter of Dy. Personnel Manager, Katras Area dated 29-6-82 whereby the Dy. Personnel Manager informed Sri R. Rai, General Secretary, Rashtriya Koyla Ispat Mazdoor Sangh that they had already taken up the matter of transfer of 58 wagon loaders of Katra-Choutidih colliery with the Head Quarters and in the circumstances he requested the General Secretary to wait for the decision of the Head Quarter and not to sit on hunger strike on the issue (Annexure-V). It appears that by order dated 24-8-82, 58 wagon loaders were transferred again to Govindpur Area (Ext. M-3). But the General Manager of Govindpur Area informed the Personnel Manager (IR), Karmik Bhawan, Dhanbad, by letter dated 26-6-82 that there was no requirement of wagon loaders in the Area and he required 2/3 months time to sort things out. (Annexure-IV). Thereafter suddenly the Personnel Manager of Katras Area informed R. Rai, Secretary Rashtriya Koyla Ispat Mazdoor Sangh by letter dated 30-6-82 to advise these 58 workers to join Akashinari Colliery (Annexure-VI). No transfer order in this behalf appears to have been issued. Ultimately these 58 workmen were allowed to join Govindpur Colliery. It has been asserted by the concerned workmen that these workmen reported for duty at Govindpur colliery on 8-7-82. This position has not been assailed by the management. That being so, it is evident that these 58 workmen did not join their duties from 9-2-82 to 26-6-82 and that they could not work as wagon loaders between 26-6-82 and 9-7-82 owing to the administrative lapse of the management. This being the position these 58 concerned workmen are entitled to get wages from 26-6-82 to 9-7-82 at the rate at which they were entitled to at the relevant time.

10. Accordingly, the following award is made— the demand of the workmen of Katras-Choutidih Colliery of M/s. B.C.C. Ltd. for payment of wages to the wagon loaders as listed in Ext. M-3 for the period from 26-6-82 to 9-7-82 is justified, but their demand for payment of wages to these workmen for the earlier period i.e. 9-2-82 to 25-6-82 is not justified. In the circumstances of the case I award no cost.

S. K. MITRA, Presiding Officer

[No. L-20012/158/83.D.III(A)/D.IV(A)]

का. प्र. 3089.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, मै. टीस्को का वेस्ट बोकारो कोलियरी के प्रबन्धन से सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण (मं. 2), धनबाद के पंचाट की प्रकाशित करती है।

S.O. 3089.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal (No. 2), Dhanbad as shown in the Annexure, in the industrial dispute between the employers in relation to the management of West Bokaro Colliery of TISCO and their workmen.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

Reference No. 351 of 1986

In the matter of an industrial dispute under Section 10(1)(d) of the I. D. Act, 1947

PARTIES :

Employers in relation to the management of West Bokaro Colliery of M/s. Tisco. and their workmen.

APPEARANCES :

On behalf of the workmen—Shri B. N. Sharma, Joint General Secretary, Janta Mazdoor Sangh.

On behalf of the employers—Shri A. A. K. Sinha, Asst. Chief Personnel Manager.

STATE : Bihar INDUSTRY : Coal
Dhanbad, the 22nd August, 1988

AWARD

The Government of India, Ministry of Labour in exercise of the powers conferred on them under Section 10(1)(d) of the I. D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-24012/109/86-D.IV (B), dated, the 21st November, 1986.

SCHEDULE

“Whether the action of the management of West Bokaro Colliery of M/s. Tisco. Ltd., P.O. Ghatatand, Distt. Hazaribagh by removing the services of Shri Mohd. Sallaludin is legal and justified? If not, to what relief the workman concerned is entitled?”

The case of workmen is that the concerned workman Md. Sallaludin was working as permanent Electrician in West Bokaro Colliery of M/s. Tisco. Ltd. He was served with a chargesheet dated 13-11-85 under clause 27(2) and 27(19) of the Standing Orders of the Colliery. The allegations against the concerned workman was that on 11-11-85 the concerned workman was in second shift duty from 5 P.M. to 1 A.M. and thereafter he was asked to continue on till 5 A.M. at Field Repair Shop (for brevity hereafter called FRS). During the said period at about 3.30 A.M. of 12-11-85 the concerned workman was caught by the Watchman on duty Shri Raghubir Rai at FRS gate while the concerned workman was driving the Tipper No. BHM 9034 unauthorisedly violating the provision of Regulation 190 of

the Coal Mines Regulation, 1957. Further on checking by the watchman 10 items of materials were recovered from the tipper being driven by the concerned workman. The concerned workman failed to produce any valid gate pass for leaving the tipper and the materials in tipper. The materials found from the possession of the concerned workman were electric pump in two sealed tins of 4 litres, ignition switch started with key, Every paper one roll, about 10 metres of low tension wire, one roll of cotton tape, two pieces of safety terminal clamp, two nos. of duplicate book, one vehicle head light holder and catalogue of Lucas T.V.S. The concerned workman, submitted his explanation to the charge sheet on 16-11-85 denying the charges against him. An enquiry was ordered to be held into the charges against the concerned workman. The concerned workman was found guilty of the charges by the Enquiry Officer in the said enquiry and was dismissed from service with effect from 30-11-85. The charges against the concerned workman had not been established by the legal evidence before the Enquiry Officer but even then the management dismissed the concerned workman from service arbitrarily, illegally and in a mala-fide manner. It was not established before the Enquiry Officer that the materials named in the chargesheet were store materials of the management and was removed by the concerned workman from the possession of the storekeeper where these materials were stored. The charges of misconduct as brought out against the concerned workman were not established. It is alleged in the chargesheet that the concerned workman was using the vehicle of the company during his duty hours and that the 10 items of the articles kept in the drivers cabin of the vehicle were recovered. Out of 3 of the articles out of the 10 is supposed to be carried by the concerned workman in course of his duty and rest of the 7 articles are usually kept by the driver of a vehicle in the drivers cabin for emergent use. This aspect of the case was not considered by the Enquiry Officer. The management did not establish that the concerned workman had dishonestly removed the materials belonging to the company. The management did not establish that the articles recovered from the vehicle belong to the company. Regulation 190 of Coal Mines Regulation includes acts of omission on the part of the person to do anything or to omit to do anything which may endanger the life and safety of the mine. There could be no presumption that if a person without having a heavy duty licence ply, vehicle could be appeared to endanger life in the mine. The vehicle was being plied on the surface and not in the mine. Although the concerned workman had no licence to drive heavy vehicles, the management cannot assume any authority to punish the concerned workman under Motor Vehicles Act.

After dismissal from service the concerned workman raised an industrial dispute with the management by his letter dated 29-11-85 and thereafter his union Janta Mazdoor Sangh raised an industrial dispute with the Director of Collieries on 11-12-85. The ALC(C) Hazaribagh started conciliation proceeding but the conciliation ended in failure and on receipt of the failure report the Government of India in the Ministry of Labour referred the present dispute for adjudication to this Tribunal.

The case of the management is that the concerned workman Md. Sallaludin, E.P. Electrician in Cat. C, Excavation Section, committed serious misconduct under clause 27(2) and 27(9) of the Certified Standing Orders while on duty. After enquiry he was dismissed from his services as a measure of punishment imposed upon him. The concerned workman was on duty upto 5 A.M. between 11/12-11-85 at about 3.15 A.M. Shri Ashrar Ahmed Motor Vehicle Driver deputed in the vehicle Tipper BHM 9034 came from crashing plant and parked the vehicle near the office of the Foreman Incharge. At about 3.30 P.M. the concerned workman was found driving the said Tipper BHM 9034 near FRS main gate with a view to cross the gate to the outside premises of the mine. The Watchman on duty Shri Reghubir Rai intercepted the vehicle and checked it. It was found that the concerned workman was carrying away 10 items of material valued about @ Rs. 1500 without any valid gate pass. He was also not possessing any driving licence and was not entrusted with the duty of driving the vehicle. The concerned workman was issued with a chargesheet dated 13-11-85 for unauthorised driving of the vehicle and stealing away the materials which was caught red handed by the management. The Tipper BHM 9034 was being used for transportation of materials etc. from the Open Cast working to the FRS and is a mining machinery used in the Open Cast mine for transportation of coal. The FRS gate is

situated near the Open Cast mine and all surface area right from FRS gate upto the lowest bench of the Open Cast working form part and parcel of the open cast mine. The concerned workman did not possess the driving licence to qualify him to drive the heavy vehicle. He was never authorised by the Manager of the mine to drive the tipper or any vehicle. In the absence of authorisation under Regulation 36 he could not have driven the vehicle ever if he was having a valid licence. It was no part of his duty as Electrician to drive the vehicle. The concerned workman violated the provisions of Regulation 190 of the Coal Mines Regulation by driving the vehicle unauthorisedly without valid licence and authorisation and thereby exposing himself and others to the risk of life and damage of property. He committed breach of duty specified under the Coal Mines Regulation. His conduct was dishonest as he was stealthily carrying out 10 items of materials from within the premises of the mine to outside mine with a view to misappropriate the same. The concerned workman had submitted his reply stating that he was driving the vehicle at the instruction of Shri D. Bhattacharjee, Foreman Incharge to attend the breakdown and had received a gate pass for that purpose. He had stated that the materials mentioned in the chargesheet were already there in the vehicle and he was not aware as to who had kept those materials in the vehicle. He denied that he committed the misconduct alleged against him. The date of enquiry was communicated to the concerned workman. Shri H. Kujur Personnel Officer was appointed as Enquiry Officer. The departmental enquiry was held on 19-11-85 in presence of the concerned workman. The management examined three witnesses whereas the concerned workman gave his statement and examined one witness Shri Ismail Mian in his defence. The departmental enquiry was conducted in accordance with the principles of natural justice. The concerned workman was given full opportunity to cross-examine the management's witness and to give his own statement and to produce his defence witness and documents. The Enquiry Officer was unbiased and conducted the enquiry fairly and properly. The concerned workman did not raise any objection against the Enquiry Officer deputed to conducted the enquiry. The concerned workman had fully participated in the enquiry and put his signature on all the pages of the enquiry proceeding after the contents were read over and explained to him in Hindi. The Enquiry Officer submitted his report dated 22-11-85. The enquiry report is based on the materials on record in the departmental enquiry proceeding. The management accepted the finding of the enquiry officer. The matter was examined by the Agent who was satisfied that the concerned workman had committed serious type of misconduct for which appropriate punishment was dismissal. Accordingly the Agent of the Colliery dismissed the concerned workman with effect from 30-11-85 vide letter dated 25-11-85.

As the concerned workman had been dismissed on the charge of misconduct after holding domestic enquiry it was prayed by the management that it first be decided as a preliminary issue whether the domestic enquiry held into the charges against the concerned workman was fair and proper and in accordance with the principles of natural justice. So that in case enquiry is held to be not proper, the management may adduce fresh evidence before this Tribunal to establish the charge against the concerned workman. From the W.S. of the workman also it appears that the enquiry proceeding was being challenged as such it was decided that the fairness and propriety of the enquiry proceeding be heard first as a preliminary issue and accordingly the said issue was heard. The Tribunal by its order dated 16-6-88 held that the domestic enquiry into the charge against the concerned workman as fair, proper and in accordance with the principles of natural justice and that the case was to be heard on merit on the materials which were already on the record of the enquiry proceeding.

The points for decision are (1) whether the charge of misconduct alleged against the concerned workman was established in the enquiry proceeding and (2) whether the punishment of dismissal imposed on the concerned workman was too severe.

Some of the facts of the case are admitted. Ext. M-1 is the chargesheet and Ext. M-2 dated 16-11-85 is explanation to the chargesheet submitted by the concerned workman. It

will appear from his reply that he was driving the tipper out according to him he was instructed by Shri Bhattacharjee Foreman to take out the vehicle from attending the breakdown in the field and gave a gate pass for that purpose. He has further stated that he was not aware of the materials which were kept in the materials from before. It will further appear from his statement made before the enquiry officer after the close of the examination of the management's witness that he was in second shift duty on 11-11-85 from 5 P.M. to 1 A.M. and thereafter he was asked to continue on overtime till 5 A.M. He stated that about 2.15 A.M. during the said shift he demanded vehicle from Ashrar for going to his quarter which was denied. He further stated that at about 3.30 A.M. he was going to Quarry 3 for attending some break down job on RD-65 and since the Tipper BHM 9036 was meant for maintenance people he took the said tipper for going to quarry B and that he took gate pass from Shri D. Bhattacharjee and proceeded to quarry B. He has stated that while he was taking out the vehicle from the FRS gate the Watchman on duty stopped him and checked the vehicle and found his tools, S.T. wire, ignition switch lighting holders, battery socket, Cotton tape etc. which were kept in the cabin. He has stated that the Watchman demanded gate pass of those materials to which he replied that the gate pass is not issued for such small materials and thereafter the watchman kept all those materials in his possession. He has stated that he also saw enamel paint 8 tins of 4 litre and triplicate book present in the box inside the vehicle but he did not Envy. These materials were kept in the claim. In cross-examination by the management's representative he replied in answer to question No. 8 that black tape cotton tape, L.T. wire and ignition switch were required for attending RD-65. In answer to question No. 9 he stated that he had kept those materials in the desk cabin of vehicle of DHM 9034. To question No. 11 he has stated that he had kept the materials in the packing box on the advice of watchman. In answer to question No. 16 he stated he had taken permission from Foreman Incharge before taking out the vehicle BHM 9034. In answer to question No. 17 he stated that Md. Ismail (WW-1) was present when Foreman Incharge gave him permission to take out the said vehicles. In answer to Question No. 18 he stated that he took gate pass from the Foreman Incharge which was submitted by him as Ext. 1 before the enquiry officer. In answer to question No. 23 he stated that he did not possess any valid licence for driving heavy motor vehicle. In answer to question No. 24 he stated that he was aware that driving vehicle in colliery without having valid driving licence and without valid authorisation is violation of the Regulation 190 of Coal Mine Regulation. It will thus appear from the statement of the concerned workman that he was driving dumper BHM 9034 at the time he was checked at the FRS gate by the watchman on duty and that the 10 materials named in chargesheet were found in the said vehicles. The concerned workman claims 3 of the articles to be his which are required for the purpose of his job but the other 7 materials did not belong to him and he does not claim them. His defence is that he had taken the vehicle with permission of the Foreman Incharge Shri Bhattacharjee for attending RD-7 and that the materials found in the vehicle were kept in it from before and that he had not stolen it. His defence witness Md. Ismail has stated that he was working in FRS as Fitter Helper. On 11-11-85 he was also in the second shift duty and continued Overtime till 5 A.M. He has stated that at about 3.30 A.M. Shri Sallaludin (the concerned workman) told him about the breakdown and asked him to accompany him to quarry B. He has stated that when he reached FRS gate, the watchman on duty stopped Tipper BHM 9034 being driven by the concerned workman. In cross-examination he has stated that he did not see any packing box in the cabin of the vehicle. In answer to question No. 5 he stated that the tool box was on the seat and the concerned workman had asked him to hold it. In answer to question No. 6 he has stated that when the watchman was checking the cabin he was in the cabin and had shown the tool box. In Answer to question No. 7 he stated that the Watchman did not tell the concerned workman to put black tape, ignition switch, LT wire into the sackage box which was found in the cabin. In answer to question No. 9 he stated that the Watchman had asked for the gate pass and in answer to question No. 10 he stated that the concerned workman did not show any kind of gate pass to the watch-

man. In answer to question No. 11 he stated that he was not present when Shri Sallaludin was taking the gate pass from Shri D. Bhattacharjee. Thus this witness who was examined on behalf of the concerned workman did not support the concerned workman that he was present at the time when the concerned workman had taken the gate pass from Shri D. Bhattacharjee. He also stated that the concerned workman did not show the gate pass to the Watchman when he was asked for by the watchman. The concerned workman in his statement stated that Md. Ismail was present when the Foreman Incharge had given the gate pass to the concerned workman but his witness Ismail does not support it. Thus it appears that the statement of the concerned workman is not supported by his defence witness that the Foreman had granted any gate pass to the concerned workman to take the vehicle for going to quarry B.

The management's witnesses are Raghuraj Rai, Watchman, Shri D. Bhattacharjee, Foreman Incharge in FRS and Shri Ashrar Ahmed Driver of Tipper BHM 9034 in the alleged night. The concerned workman did not cross-examine Raghuraj but cross-examined Shri D. Bhattacharjee and Shri Ashrar.

The statement of Raghuraj Rai Watchman shown that at about 3.30 A.M. the concerned workman was driving upper BHM 9034 unauthorisedly and was trying to take away the said vehicle from the FRS gate when he stopped it and demanded valid gate pass for taking out the vehicle. He has stated that he did not allow to take out the said vehicle and thereafter the concerned workman showed him a false gate pass. He has stated that on checking he found about 10 materials for which the concerned workman did not produce any gate pass and therefore he ceased all these materials which were packed in the paper packing box and informed the security control room about the incident. He has stated that he also immediately enquired the Foreman Incharge and Shri Ashrar Ahmed Driver of BHM 9034 about the gate pass of the vehicle and the materials but they told him that no gate pass was issued from their end either for taking out the vehicle or the materials, Shri Ashrar Ahmed also told him that the concerned workman did not take permission for taking out the vehicle. The facts stated by him have not been challenged by cross-examining him. Most of the facts stated by him regarding the taking of the vehicle and recovery of materials from it also find support from the statement of the concerned workman and his defence witness.

The second witness for the management Shri D. Bhattacharjee Foreman Incharge of FRS has stated that he was on duty from 5 P.M. to 5 A.M. between 11/12-11-85 He has stated that at about 3.30 A.M. he was in his Foreman Incharge's room along with Shri Ashrar Ahmed. MW-3 (driver of Tipper No. 9034). He has stated that after sometime he heard the sound of starting of engine of tipper and so he asked Ashrar Ahmed to enquire. He has stated that after enquiry Ashrar Ahmed informed him that the sound was of Tipper BHM 9034 which was unauthorisedly driven by the concerned workman and caught by the watchman Shri Raghuraj Rai at the FRS gate. He has stated that the concerned workman came to him and requested him to help him. He also stated that during that period two security guards came to him and informed him that the concerned workman was caught red handed while he was trying to take the materials unauthorisedly. This witness immediately rushed to the FRS Gate and found the materials packed into the packing box. He has also clearly stated that the concerned workman did not take permission from him nor he had authorised the concerned workman to take Tipper No. BHM 9034. He has also stated that the concerned workman did not even inform the driver of the said vehicle Shri Ashrar Ahmed before taking the vehicle unauthorisedly. He has also stated that the concerned workman had not asked for the materials which were found in the vehicle and that he had not issued any gate pass to the concerned workman. In Answer to Question No. 1 in cross-examination Shri D. Bhattacharjee stated that the concerned workman did not take permission from him nor from Ashrar Ahmed driver of the said Tipper BHM 9034. In answer to question No. 2 Shri Bhattacharjee said that he did not give any gate pass to the concerned workman nor the concerned workman had approached him for any gate pass. It is thus evident from the evidence of Shri Bhattacharjee that he had

not issued any gate pass to the concerned workman and that the gate pass Ext.-1 was not given by him. His evidence appears to be correct regarding the fact that he did not grant the gate pass because according to the concerned workman the gate pass was given by the Foreman Incharge in presence of Md. Ismail but the said Md. Ismail has denied that any gate pass was given by the Foreman to the concerned workman in his present.

Shri Ashrar Ahmed witness No. 3 for the management was admittedly the driver of Tipper No. BHM-9034 in the night between 11 and 12-11-85. He has stated that he was in the third shift duty from 10 P.M. to 6 A.M. as Driver on Tipper BHM 903 for attending breakdown jobs. He has stated that at about 3.15 A.M. he came with the said tipper from the crushing plant to FRS and was sitting in the Foreman's Office. He stated that after sometime he heard the sound of engine tipper and he was asked by Shri D. Bhattacharjee Foreman Incharge to check up and after enquiry he informed the Foreman Incharge that sound was coming from Tipper No. BHM 9034 which was being driving by the concerned workman. He has further stated that the concerned workman did not take permission from him nor informed him before taking out the vehicle. He has stated that when he came back from crushing plant he had packed the vehicle at FRS premises and at that time no materials were kept in the Tipper. He was cross examined by the concerned workman but the question put to him in the cross-examination do not disclose that any part of the evidence of Ashrar Ahmed was incorrect.

Analysing the evidence of all the management's witness, the statement of the concerned workman and the evidence of his defence witnesses it appears that the concerned workman had no licence to drive heavy vehicle. The concerned workman was an E.P. Electrician and it was not the part of his duty to drive the vehicle. The concerned workman had neither any licence to drive tipper BHM 9034 which is a heavy vehicle nor he was authorised to drive the same. The defence of the concerned workman that he was taking away the vehicle with permission from the Foreman Incharge and that the Foreman Incharge had given gate pass Ext. 1 is denied by the Foreman Incharge Shri Bhattacharjee. The evidence of Shri Bhattacharjee that he had not granted Ext. 1 appears to be correct. Admittedly BHM-9034 had its driver and it was no part of the job of the concerned workman to take the said vehicle himself for the purpose of repair in the quarry B when the driver of the vehicle was already in the room of the Foreman Incharge. The concerned workman has been charged for violation of 190 of CMR under clause 27(19) of the Standing Orders Ext. M-4. Clause 27(19) of the Standing Orders provides that any breach of Indian Mine Act or any other Act or any rules or bye laws thereunder or of a standing order is a misconduct Coal Mines Regulation, 1957 has been framed in exercise of the powers conferred by section 57 of the Mines Act, 1952. Regulation 190 relates to the general safety and provides that no person was negligently or willfully do nothing likely to endanger life or limb in the mine or negligently or wilfully omit to do anything necessary for the safety of the mine or of the persons employed thereunder. As the concerned workman did not possess any licence to drive any heavy vehicle, the driving of the vehicle by him was without a licence which was likely to endanger life or limb in a mine or of the person employed thereunder. In my opinion the allegation of violation of the provision of regulation 190 of CMR, 1957 is a misconduct by the concerned workman covered under clause 27(19) of the Certified Standing Orders and is misconduct. The said charge under clause 27(19) of the Standing Order is therefore established against the concerned workman.

The other charge of misconduct against the concerned workman is under clause 27(2) of the Standing Orders which relates to a misconduct for theft in connection with the company's property. The evidence in the case shows that some materials were found from the vehicle being driven by the concerned workman which did not belong to the concerned workman. The question is whether the said materials were stolen by the concerned workman or that these materials belong to the management which were being dishonestly removed by the concerned workman. Although, as stated above, some of the materials found in the vehicle did not belong to the concerned workman, the management

has not been able to establish that it was stolen by the concerned workman or that it was removed by the concerned workman from the stores or the possession of the management. The evidence on this fact is completely lacking and there is no evidence to show that the materials found in the vehicle were removed from the stores or from any other place in possession of the management. The management did not produce any register to show that these materials were removed from any stores or that those materials were found short in the stores. In the above view of the matter I hold that the management has failed to establish that the concerned workman had either stolen these materials found in the vehicle or that it actually belonged to the management. In the above view of the matter I hold that the charge of misconduct of theft of materials belonging to the management has not been established under clause 27(2) of the Standing Orders.

As the charge of theft has not been proved against the concerned workman and the only charge established against him is that he was taking away and driving the tipper without having a valid licence for driving a heavy vehicle and without permission for the same, the punishment of his dismissal from service appears to be severe and is not proportionate to the gravity of the misconduct established in this case. In my opinion the punishment of dismissal being too harsh has to be set aside. As the charge of theft has not been established and the charge established under clause 27(19) of the Standing Orders does not call for a punishment of dismissal. The concerned workman was dismissed from service with effect from 30-11-85 and as since then he is not in service, ends of justice will be fulfilled if he is reinstated in service but by way of punishment for the charge under clause 27(19) no payment is made to him since the period of his dismissal till the date of his joining.

In the result, I hold that the action of the management of West Bokaro Colliery of M/s. TISCO in dismissing the concerned workman from service is not justified although the charge against him under section 27(19) of Standing Order is established against him. The management is directed to reinstate the concerned workman in service within one month from the date of publication of the Award but the concerned workman will not be paid any back wages from date of his dismissal to the date of his reinstatement. However, the concerned workman will get continuity of his service.

This is my Award.

Sd/-
I. N. SINHA, Presiding Officer
[No. L-24012/109/86/D.IV(B)
D.IV(A)]

का. आ. 3099.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, मै. सी. सी लिमिटेड का गिडी "ए" कोलियरी के प्रबन्धन में सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निम्नलिखित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक प्रधिकरण, सं. 2 धनबाद के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-9-1988 को प्राप्त हुआ था।

S.O. 3090.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal No. 2 Dhanbad as shown in the Annexure in the industrial disputes between the employers in relation to the Gidi 'A' Colliery of M/s. C.C. Limited and their workmen which was received by the Central Government on the 16th September, 1988.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

Reference No. 3 of 1986

In the matter of an industrial dispute under Section 10 (1)(d) of the I.D. Act, 1947.

PARTIES :

Employers in relation to the management of Gidi-A Colliery of M/s. C.C. Ltd. and their workmen

APPEARANCES :

On behalf of the workmen : Shri D. Mukherjee, Advocate.

On behalf of the employers : Shri R. S. Murthy, Advocate.

STATE : Bihar,

INDUSTRY : Coal.

Dated, Dhanbad the 6th September, 1988

AWARD

Govt. of India, Ministry of Labour in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-24012(64)/85-D.IV (B), dated the 17th/26th September, 1985.

SCHEDULE

"Whether the action of the Management of Gidi-A Colliery of M/s. C.C. Ltd., (Argada Seem), P.O. Gidi-A Hazaribagh in not allowing Shri Nasir to join duty without giving him an opportunity to defend his case and denying wages to him for the period from October, 1983 till to-date is legal and justified? If not, to what relief is the workman concerned entitled?"

The case of the concerned workman Md. Nasir is that he was a permanent Coalcutter in East Mines of Gidi-A colliery of M/s. CCL. He took casual leave from 17-10-83 to 19-10-83 and proceeded to his native village home. He fell seriously ill and as such he could not report back to his duty on 20-10-83. He had informed the management by letter dated 10-10-83 sent under postal certificate about his illness praying for extension of leave. The management did not sent any reply rejecting his prayer for extension of leave. He sent another letter dated 17-11-83 under Regd. Post for further extension of his leave but the concerned workman did not receive any reply from the management rejecting his prayer for extension of leave. After recovery from illness the concerned workman reported for his duty on 11-2-84 along with medical certificate but he was not allowed to resume his duties. The management had issued a chargesheet dated 8-11-83 which was received by the concerned workman on 25-11-83. It was alleged in the chargesheet that as the concerned workman was absenting from duty continuously without permission and without satisfactory cause for more than 10 days since 20-10-83 which constitutes misconduct under the Standing Orders as applicable to the concerned workman. He was asked to resume his duties within 7 days of receipt of the letter and also he was asked to submit his explanation in this respect. The said chargesheet dated 8-11-83 was illegal arbitrary and against the provisions of the Standing Orders. However, the concerned workman reported for duties after recovery from his illness but he was not allowed to resume his duties. He was orally informed by the management that the services of the concerned workman had been terminated without affording him any opportunity and without complying of the mandatory provision of the Standing Order. The management orally terminated the services of the concerned workman without conducting any enquiry in violation of the principles of natural justice. The concerned workman represented before the different authorities stating the full facts of the case but without any effect. Thereafter the concerned workman raised an industrial dispute under Section 2(A) of the I.D. Act before the ALC(C) Hazaribagh on 13-11-1984. The conciliation proceedings ended in failure, and thereafter the present dispute was referred to his Tribunal for adjudication. In the meantime according to the settled practice the Government of India, Ministry of Labour had sought for opinion from M/s. CCL before referring the dispute for adjudication with a copy of the confidential report of the Conciliation Officer and the management as soon as it came to know about the mind of the Ministry issued a letter allowing 22-11-85. The action of the management in not allowing the concerned workman to join duty without giving him any opportunity to defend his case and denying wages to him for the period of October, 1983 to 22-11-85 was illegal

arbitrary unjustified and against the provision of the Standing Orders. The concerned workman therefore prayed that his reinstatement should be with full back wages and other benefits for the period of his illness.

The case of the management is that the concerned workman took casual leave from 17-10-83 to 19-10-83 and thereafter he did not resume his duties on 20-10-83 and remained absent without permission and without satisfactory cause for more than 10 days which is a misconduct under the Certified Standing Orders as applicable to Gidi-A colliery. The concerned workman was issued with a chargesheet dated 8-11-83 and the same was sent to him by Regd. Post calling for his explanation for his absence from duty without permission and without satisfactory cause for more than 10 days from 20-10-83. Although the concerned workman had received the chargesheet, he failed to submit any explanation. The management waited for sometime and thereafter issued a letter dated 24/26-11-83 terminating the services of the concerned workman on the ground of misconduct referred to in the chargesheet. A copy of the said letter was sent to the concerned workman under certificate of posting and the original of the said letter was sent to him by Regd. Post. The concerned workman was not available at the colliery and as such it was not possible for the management to hold a regular domestic enquiry into the charges against him. It is submitted on behalf of the management that since no domestic enquiry was held by the management in the case, the management shall be producing evidence before this Tribunal on the merit of this case and the management prayed that they may be permitted to adduce their evidence before the Tribunal. In the past the concerned workman was in the habit of absenting from duty in an unauthorised manner which constitutes an aggravating circumstances. The concerned workman was present on duty for 114 days only in 1982 and for 108 days only in 1983. The case of the concerned workman was re-considered by the management after he raised an industrial dispute under Section 2(A) of the I.D. Act before the ALC(C) Hazaribagh. The management reviewed the matter and decided that the concerned workman should be given a chance to rectify him and allowed him to join duties by an order dated 20/21-11-85 subject to the condition that he will not be entitled to any wages for the period from the date of his dismissal from service and the date of resumption of duty. The concerned workman accordingly resumed his duty accepted the condition stipulated by the management. In the light of the said fact the concerned workman was stopped from raising the present dispute or pursuing the same. Since the concerned workman was already dismissed from service by an order issued by the management dated 24/26-11-83, there was no question of his being allowed to join duty. Since the concerned workman was allowed to join duty subject to the condition stipulated in the office order dated 20/25-11-85 as result of his case having been reviewed by the Head Office, there is no question of payment of any wages to him for the period from October, 1983 till the date of reference order. The concerned workman started working in terms of office order dated 20/21-11-85 even before the present order of reference was issued by the Central Government. In view of the above facts it is prayed on behalf of the management that the concerned workman is not entitled to any relief.

The points to be decided in the case are whether the dismissal of the concerned workman as justified and whether the concerned workman is entitled to the wages for the period from October, 1983 till the date of the reference order.

The management and the concerned workman each have examined one witness in support of their respective case. The documents of the concerned workman are marked Ext. W-1 to W-5 and the documents of the management are marked Ext. M-1 to M-8.

It is the admitted case of the parties that the concerned workman was reinstated by the management and resumed his duty on 22-11-85 vide the order of the management Ext. M-5 dated 20/25-11-85 as such there is no question how for reinstatement of the concerned workman.

It has been admitted by the management in para 7 of his W.S. that no domestic enquiry was held by the management into the charges against the concerned workman. Ext. M-1 dated 8-11-83 is the chargesheet issued against the concerned workman. Admittedly, the workman had not filed any reply to the said chargesheet. Ext. M-2 dated 24/26-11-83 is the order of dismissal passed against the concerned workman in respect of the charge dated 8-11-1983. It will thus appear that the concerned workman was dismissed from service without holding any domestic enquiry into the charges of misconduct levelled against him therefore the dismissal of the concerned workman without holding any domestic enquiry was illegal and unjustified.

However, the management prayed in para-7 of the W.S. that since no domestic enquiry was held by the management they may be permitted to produce evidence before the Tribunal on the merit of the case. The said prayer of the management was allowed in view of the decisions reported in 1962 (2) I.L.J. 498 and the management examined MW-1 to establish the charge levelled in Ext. M-1. As the concerned workman has already resumed his duties it was not necessary to establish the charge of misconduct against the concerned workman but as the concerned workman is claiming his wages from October, 1983 till the date of his reinstatement, it has become necessary to go into the fact whether the charge levelled against him was established or not. In case it is established that the charge levelled against the concerned workman in Ext. M-1 is established the concerned workman may not be entitled to the wages for the period of his idleness but if the charge levelled against the concerned workman is not established, the concerned workman will be entitled for all his back wages.

Ext. M-1 is the chargesheet which is as follows :—

"It has been reported that you have been absenting from duty continuously without permission and without satisfactory cause for more than 10 days i. e. since 20-10-83. Under the Standing Orders as applicable to you, this constitutes misconduct if the charge against you is proved. You are required to assume duty immediately on receipt of this chargesheet. Your explanation in this respect should reach me within 7 days of the receipt of this letter by you. If you fail to submit such explanation it will be presumed that you have no explanation to officer, that you accept the charges and thereafter the competent authority will dispose of the case on its merits without any further reference to you and pass such orders as may be appropriate in the circumstances of the case".

It will thus appear from the above chargesheet that the concerned workman was chargesheeted for the misconduct of absenting from duty continuously without permission and without satisfactory cause for more than 10 days which constitutes misconduct under the Standing Orders as applicable to him. MW-1 is working as Manager, Quality control, CCL Ranchi and was formerly working in Gidi-A colliery from 1980 till September, 1985. He has stated that the concerned workman was granted leave from 17-10-83 to 19-10-83 and that the concerned workman did not resume his duty on 20-10-83 and did not apply for leave from 20-10-83. He has further stated that the concerned workman was not regular in his attendance in the past. In cross-examination he has already stated that there was no chargesheet against the concerned workman regarding his habitual absentism. Now let us turn to Ext. M-6, which is the certified standing Orders applicable to the concerned workman in Gidi-A colliery. This certified standing order was first applicable to NDC Ltd. and after NDC was taken over by CCL, the said certified standing order is applicable to the collieries of CCL including Gidi-A colliery. This Ext. M-6 has been filed by the management to show

as to what is contained in the certified standing orders applicable to the concerned workman S.O. No. 17 of Ext. M-6 deals with the disciplinary action of penalty. S.O. 17(1)(d) provides that habitual late attendance and habitual absence without leave or without sufficient cause is a misconduct. There is no other clause in S.O. 17 showing that absenting from duty continuously without permission and without satisfactory cause for more than 10 days is a misconduct. According to clause d) of S. O. 17 "Habitual absence without leave or without sufficient cause is misconduct." Thus according to the S.O. habitual absence without leave or without sufficient cause is said to be misconduct under S. O. No. 17 of the Ext. M-6. Now let us see if there is any charge against the concerned workman that he was habitually absenting without leave or without sufficient cause and whether the said charge was established by the evidence in the case. On reference to Ext. M-1 it will appear that there is no charge against the concerned workman of misconduct of habitual absence without leave or without sufficient cause. The charge levelled against the concerned workman refers to a single charge of absence without permission and satisfactory cause for more than 10 days since 20-10-83. Thus the chargesheet against the concerned workman is not in accordance with the misconduct of habitual absence without leave or without sufficient cause as stated in S. O. 17(1)(d). In this connection the case reported in 1983 LAB IC 1909 (SC) may usefully be referred. It was held by their Lordships in the said case some that misconduct neither defined nor enumerated and which may be believed by the employer to be misconduct ex-post-facto would not expose the workmen to penalty. It cannot be left to the vagaries of management to say ex post facto that some acts of omission or commission nowhere found to be enumerated in the relevant standing order is nonetheless a misconduct not strictly falling within the enumerated misconduct in the relevant standing order but yet a misconduct for the purpose of imposing penalty. In the present case habitual absence without leave or without sufficient cause is a misconduct under S.O. 17(1)(d) of the Standing Orders and there is no misconduct defined in the standing orders that absentism over 10 days without permission or sufficient cause is a misconduct. Therefore in face of the provision in the standing orders it cannot be validly argued that some other acts or omission may be misconduct although not provided for in the standing orders. In the above view of the matter I hold that single absenting from duty without permission and without satisfactory cause for more than 10 days is not a misconduct under the certified standing orders applicable to the concerned workman and therefore the concerned workman cannot be punished for the allegation of absenting from duty without permission and without satisfactory cause for more than 10 days. He could be punished only if there was a charge of misconduct of the concerned workman of habitual absence without leave or without sufficient cause for which the concerned workman has not been charged.

On perusal of the evidence also it will appear that the management has not been able to establish the charge of misconduct of habitual absence without leave or without sufficient cause against the concerned workman. The management has produced extract from bonus Register Ext. M-8 in respect of the concerned workman to show that the concerned workman was in habit of absenting from duty in an unauthorised manner. It is also stated in para 8 of the W.S. of the management that the concerned workman was present on duty for 114 days in 1982 and 108 days in 1983. The fact that the concerned workman was present only for 114 days in 1982 and 108 days in 1983 in itself cannot establish that he was absenting from duty in an unauthorised manner. Admittedly, the management has not produced any chargesheet or any order of punishment to show that the concerned workman was either chargesheeted or punished for absenting from duty in an unauthorised manner. The fact that there is no evidence to the effect that the concerned workman had in the past absented from duty in an unauthorised manner it has to be held that the management

has not been able to establish the unauthorised manner of absence of the concerned workman. Had the concerned workman absented from duty unauthorisedly in the past the management must have produced evidence to that effect and as such by mere stating that the concerned workman had unauthorisedly absented in the past cannot establish the charge of habitual absence without leave or without sufficient cause. I hold, therefore, that the management has not been able to establish that the concerned workman had committed misconduct of habitual absence without leave or without sufficient cause as per 17(1)(d) of the Certified Standing Orders of Ext. M-6. More so as I have already discussed above that the charge levelled against the concerned workman in Ext. M-1 does not actually constitute misconduct under the Standing Orders Ext. M-6 which is applicable to the concerned workman.

Admittedly, the concerned workman has been dismissed from his services with effect from 26-11-83 on the ground of absenting from duty without permission and without satisfactory cause for more than 10 days since 20-10-83. It has been found above by me that the alleged charge in Ext. M-1 is not a misconduct under the Standing Orders applicable to the concerned workman and the charge of misconduct for habitual absentism without permission under the Standing Order 17(1)(d) has not been established. The order of dismissal of the concerned workman was bad and unjustified and therefore his dismissal has to be set aside.

As the dismissal of the concerned workman was unjustified, the concerned workman is entitled to the back wages and other benefits since the date of his dismissal from service by the management.

In the result, I hold that the management has not been able to establish the charge of misconduct against the concerned workman for which he was dismissed from service and as such the concerned workman is entitled to the wages for the period of his idleness since the date of his dismissal to the date of his reinstatement. There is no need to make any direction to the management for reinstating the concerned workman as he was already allowed to join his duties vide Ext. M-5 dated 20/21-11-85. The management is directed to pay his back wages and other consequential benefits from the date of his dismissal to the date of his joining within one month from the date of publication of the Award.

This is my Award.

I. N. SINHA, Presiding Officer
[No. I-24012/64/85-D.IV(B)/D.IV(A)]

का. आ. 3091.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अन्वय में, केन्द्रीय सरकार, मै. भारत कोकिंग कोल का बहादुरी कोलिरी के प्रबन्धन में सम्बद्ध नियोजकों और उनके कर्मचारियों के बीच, प्रत्यक्ष में निरिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण (सं. 1) धनबाद के पंचाट को प्रकाशित करती है।

S.O. 3091.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal (No. 1), Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the Bhatdee Colliery of M/s. Bharat Coking Coal Limited and their workman.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1 DHANBAD

In the matter of a reference under section 10(1)(d) of the Industrial Disputes Act, 1947

Reference No. 63 of 1984

PARTIES :

Employers in relation to the management of Bhatdee Colliery of M/s. B.C.C. Ltd.

2491 GI/88—10

AND

Their Workmen.

APPEARANCES :

For the Employers—Shri G. Prasad, Advocate

For the Workman—Shri B. K. Ghose, Member, Executive Committee, Janta Mazdoor Sangh.

STATE : Bihar.

INDUSTRY : Coal

Dhanbad, the 22nd August, 1988

AWARD

The present reference arises out of Order No. L-20012-(242)/84-D.III(A), dated, the 22nd September, 1984 passed by the Central Government in respect of an industrial dispute between the parties mentioned above. The subject matter of the dispute has been specified in the schedule to the said order and the said schedule runs as follows —

“Whether the action of the management of Bhatdee Colliery of M/s. Bharat Coking Coal Limited in putting Shri Bisni Harijan, a permanent Loader as Badli Loader without providing his misconduct, is justified? If not, to what relief the workman is entitled?”

2. The dispute has been settled out of Court. A memorandum of settlement has been filed in Court. I have gone through the terms of settlement and I find them quite fair and reasonable. There is no reason why an award should not be made on the basis of terms and conditions laid down in the memorandum of settlement. I accept it and make an award accordingly. The memorandum of settlement shall form part of the award.

3. Let a copy of this award be sent to the Ministry as required under Section 15 of the Industrial Dispute Act, 1947.

Sd/-

S. K. MITRA, Presiding Officer
[No. I-20012/242/84-D.III(A)/D-IV(A)]

ANNEXURE

BEFORE THE PRESIDING OFFICER, CENTRAL GOVT. INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

Reference No. 63 of 1984

Employers in relation to the management of Bhatdee Colliery of M/s. B.C.C. Ltd.

AND

Their Workmen

The humble joint petition of Compromise filed on behalf of the parties :

Mist respectfully sheweth—

1. That, the Central Government in the Ministry of Labour and Rehabilitation, New Delhi, by a notification No L-20012-(242)/84-D.III(A) dated 22-9-1984 has been pleased to refer the industrial dispute as per Schedule, noted below, for an adjudication, U/s. 10(1)(d) (2A) of the Industrial Disputes Act, 1947, hereinafter referred to as the Act, to this Hon'ble Tribunal.

SCHEDULE

“Whether the action of the management of Bhatdee Colliery of Messrs Bharat Coking Coal Ltd. in putting Shri Bisni Harijan a permanent Loader as Badli Loader, without providing his misconduct, is justified? If not, to what relief the workman is entitled?”

Brief Facts of the Case.

2. Shri Bisni Harijan had gone on leave with wages for four days from 8-6-1983 to 11-6-83, but he did not resume his duty on 12-6-83 and over stayed his leave for more than ten days and therefore, in accordance with the provisions of Para 10(e) of the Model Standing Orders workman concerned lost in lien and was kept on Badli list. The workman was sick and was suffering from schizophrenia for long.

3. That, Bisni Harijan, however, worked throughout as a badli workman and completed 190 days or more attendance during the years 1985 and 1986.

4. That, under Section 25-B(2)(a) he was said to be in continuous employment.

5. That the workman concerned has been paid wages and all other facilities, benefits and perquisites including leave with wages, train fare, L.L.T.C. etc., just like all other regular and permanent workman of the colliery.

6. That, the parties discussed the matter outside the Court, and have settled the industrial dispute on the following terms and conditions:—

TERMS AND CONDITIONS

- (1) In view of the fact that the workman concerned has been in continuous employment and has been paid wages, V.D.A., S.D.A., and all other facilities, benefits, perquisites, leave with wages, L.L.T.C. etc. payable to a permanent workman, the union did not press for the wages and other benefits and facilities either for the period of his sickness or his absence from duty any time thereafter.
- (2) It was agreed that the workman concerned shall not be paid wages and other benefits for the period of absence.
- (3) This settlement resolves the dispute between the parties and the workman concerned shall have no claim whatsoever.
- (4) It was also agreed that the Hon'ble Tribunal may be requested to pass an award in terms of the compromise/settlement.
- (5) The settlement is fair and proper.

It is, therefore, prayed that your honour may be graciously pleased to pass an award in terms of the compromise, and for this act of kindness the parties shall ever pray.

Representing workmen:	Representing Employer:
Sd/-	Sd/-
(Illegible)	(Illegible)
Part of the Award	
Sd/-	
(Illegible)	

क्र.प्र. 3092.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुकरण में, केन्द्रीय सरकार, मै. भारत कोकिंग कोल लि. का भगवान्द कोलियरी के प्रबन्धन से सम्बद्ध नियोजकों और उनके कर्मचारों की बीच, घनबन्ध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिनियम (सं. 2) धनबाद के पंचाट को प्रकाशित करती है।

S.O. 3092.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, (No. 2), Dhanbad, as shown in the Annexure in the industrial dispute between the employers in relation to the Bhagaband Colliery of M/s. Bharat Coking Coal Limited and their workmen.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) DHANBAD

In the matter of Industrial dispute under Section 10(1) (d) of the I. D. Act, 1947.

REFERENCE NO. 276 OF 1986

PARTIES :

Employers in relation to the management of Bhagaband Colliery of Messrs. Bharat Coking Coal Limited and their workmen.

(Ministry's Order No. L-20012 (107)/86-D. III(A), dated the 7th August, 1986.

REFERENCE NO. 283 OF 1986.

PARTIES :

Employers in relation to the management of Bhagaband Colliery of Messrs. Bharat Coking Coal Limited and their workmen.

(Ministry's Order No. L-20012 (106)/86-D. III (A), dated the 7th August, 1986.

APPEARANCES :

On behalf of the workmen : Shri B. Lal, Advocate and Shri D. K. Verma, Advocate.

On behalf of the employers : Shri G. Prasad, Advocate.

STATE : Bihar.

INDUSTRY : Coal.

Dated, Dhanbad, the 31st August, 1988

AWARD

The Government of India, Ministry of Labour in exercise of the powers conferred on them under Section 10(1)(d) of the I. D. Act, 1947 has referred the following disputes to this Tribunal for adjudication vide their orders referred to above.

Schedule in Reference No. 276 of 1986

"Whether the demand of Shri Amar Lal Gope, Ex-Miner/loader of Bhagaband Colliery of Messrs. Bharat Coking Coal Limited, whose services were terminated by the management of the said Colliery from 24-5-1984, that he should be reinstated in his job is justified ? If so, to what relief is this workman entitled ?"

Schedule in Reference No. 283 of 1986

"Whether the demand of Shri Dashrath Gope, Ex-Miner/loader of Bhagaband Colliery of Messrs. Bharat Coking Coal Limited, whose services were terminated by the management of the said Colliery from 24-5-1984, that he should be reinstated in his job by the management of the said Colliery is justified ? If so, to what relief is this workman entitled ?"

Both the Reference No. 283 of 1986 and Reference No. 273 of 1986 were made analogous and have been heard together as the points involved in the two references are the same.

The case of the workmen is that the concerned workman Shri Dashrath Gope of Reference No. 283 of 1986 and the concerned workman Shri Amar Lal Gope of Reference No. 273 of 1986 were appointed as Miner/loader by the management of Bhagaband Colliery of M/s. BCCL and they started working in the said capacity with effect from 1-10-1982. They were given vocational training by the management from 28-9-1982 to 28-10-1982. They were also made members of the Coal Mines Provident Fund and their regular contribution was being deducted from their wages towards the Coal Mines Provident Fund Account. They were paid regular wages, bonus and other dues. The management terminated their services with effect from 24-5-84 without any notice or show cause or chargesheet. No enquiry was held against them before the termination of their services. The said termination of the services of the concerned workmen was in utter violation of the provision of Section 25-F of I. D. Act, 1947. They were neither given one month's notice nor notice pay nor retrenchment compensation as provided under the I. D. Act.

Earlier the management of M/s. BCCL had agreed to purchase the land belonging to Buttan Gope and Ratan Gope and in terms of the said agreement the concerned workmen were provided employment with effect from 1-10-1982. Vide letter dated 15-11-1983 the management of Bhagaband colliery informed that one Jagbandhu Gope had put objection over the said land to be purchased by M/s. BCCL and as such Buttan Gope and Ratan Gope were directed to secure succession certificate and rent receipts relating to the land. According to the workmen the said Jagbandhu Gope had no title, interest and right over the land which was to be purchased by M/s. BCCL. The management of M/s. BCCL were fully aware of this said position at the time of

entering into the agreement to purchase the said land. The objection of Jagbandhu Gope relating to the land in question was rejected by the Court of different revenue authorities and the same was communicated to the management of M/s. BCCL. There is no provision for obtaining a succession certificate from any Court relating to the ownership of landed properties and as such there was no question of producing succession certificate relating to the said land before the management. The management was approached several times so that it may purchase the land and reinstate the concerned workmen on their post. When the management finally refused to purchase the land in violation of the agreement, the concerned workmen had no alternative but to raise industrial dispute. Before raising the industrial dispute the concerned workman served demand notice dated 26-11-1985 to the Agent, Bhagaband colliery in writing to reinstate them with full back wages and other benefits. The said demand notice was sent by registered post and was duly received by the management but no reply was given by them. Thereafter conciliation proceeding was held in which both the parties appeared. On failure of the conciliation proceeding the present references were made to this Tribunal for adjudication.

The concerned workmen had completed continuous attendance of more than 240 days in a year and their services could not be terminated in violation of the provision of Section 25-F of the I. D. Act. Any kind of private agreement between the parties cannot supersede the beneficial provisions of the I.D. Act and Industrial Employment (S.O.) Act and other rules and laws applicable to the concerned workmen. The termination of the services of the concerned workmen are illegal and unjustified and they are entitled to be reinstated with full back wages and other benefits.

The case of the management is that M/s. BCCL wanted to purchase/acquire some plots of land for mining and allied purpose in Mouza Bhagaband on the stipulated conditions that the land must be free from all liabilities, encumbrances, charges lien and litigation. The management offered to pay the price thereof to vendors of the land. The management of BCCL as per the circular issued by the Director of Personnel offered to employ one person for every 2 acres of Paddy land/3 acres of other land so purchased. It was also a condition of purchase of the land that in case any type of litigation is found in the land, the purchaser M/s. BCCL shall be at any time at liberty to terminate the services of the person so employed and refuse to purchase the land. Such a termination of employment, under a stipulation, in terms of employment is not a retrenchment within the meaning of Section 2(oo)(b) of the I.D. Act. It was agreed by the agreement entered into by and between Shri Suchand Mahato and 14 others jointly and severally and M/s. BCCL on 11-9-82 that the concerned workmen Shri Amarlal Gope S/o Shri Madan Gope and Shri Dasrath Gope S/o Shri Sarnam Gope shall be appointed as badli miner/loader. The said agreement also contained stipulation that if any type of litigation is found in the lands the purchaser BCCL at any time will be at liberty to terminate the services of the persons so employed. The management accepted the said agreement dated 11-9-82 in good faith and belief and offered employment to the concerned workmen S/Shri Amarlal Gope, Dasrath Gope and others. After the said agreement the management started manufacturing bricks on the plots of land so agreed to be purchased from vendors. On 2-11-83 one Shri Jagbandhu Gope son of late Kalicharan Gope served an Advocate's notice on the management restraining the employers from using the said plots of land from brick manufacturing and also not to give employment to the concerned workmen and raised a land dispute and prevented the management from using the said land Shri Jagbandhu Gope also claimed to be the real owner of the plots and land which were offered for sale by S/Shri Ratan Gope and Madan Gope in Mouza Bhagaband specifying the khata No. and plot No. of the 13 plots measuring 2 acres and 5 demials. According to the management therefore the land which was agreed to be sold by Ratan Gope and Madan Gope was not free from encumbrance and litigation. The vendors knowing fully well that they were not the real owners of the plot of land offered to sell them to the management and obtained employment for the concerned workmen and thus deceived the management purchaser. The area of land offered for sale by them also fall short of requirement as per direction contained in the D.P.'s circular. Such action on behalf of the vendors and the persons seek-

ing employment who were actually employed amount to misconduct. As a result of the resistance offered by Shri Jagbandhu Gope and the management ceased to manufacture bricks and work of the management badly suffered immediately after the receipt of the Advocate's notice, the management by letter dated 15-11-83 directed Shri Ratan Gope and Madan Gope to produce succession certificate with regard to the land from a competent Court of law but neither of them complied with. S/Shri Madan Gope and Ratan Gope whose dependants were given employment were called upon to establish their right, title and interest and possession in a Court of law over the land and produce satisfactory evidence thereof. The management learnt that S/Shri Ratan Gope and Madan Gope with a mala fide intention to grab the land under dispute applied for mutation in their names before the Circle Officer, Dhanbad stating themselves to be the brother's son of the recorded, raiyat and got their names recorded over the land by an order of the Circle Officer dated 8-10-83 behind the back of Shri Jagbandhu Gope. The said Jagbandhu Gope preferred an appeal before the LRDC Dhanbad who by order dated 25-6-84 dismissed the said appeal. Thereafter Jagbandhu Gope preferred a revision before the Additional Collector Dhanbad which was also dismissed on 25-6-84. Ultimately Shri Jagbandhu Gope filed a Title suit before the Munsiff 1st Court, Dhanbad which has been recorded as T.S. 75/88 in which the management of M/s. BCCL and the General Manager, Bhagaband Area have been made defendants along with others Shri Jagbandhu Gope in the said title suit requested the Court for a permanent injunction restraining the management and the General Manager to purchase the land from S/Shri Ratan Gope and Ratan Gope and to alter the structure of the land. Now the entire matter with regard to the right, title interest and possession of the land is subjudice before a competent Court of law having jurisdiction over the subject matter of the dispute and any judgement ultimately passed in due course will be binding on the management and the concerned workmen. The very purpose of purchasing the plots of land by the management has been frustrated and the work of the management has suffered due to litigation. Thus the terms of the said agreement between the parties was violated. The management therefore terminated the services of the concerned workmen by letter dated 24-5-84 after obtaining the approval of the competent authority. On the above plea it has been prayed on behalf of the management to hold that the demand of the concerned workmen is not justified and they are not entitled to any relief.

The point for decision are (1) whether the termination of the services of the concerned workmen by the management from 24-5-84 was justified and (2) whether the concerned workmen are entitled to be reinstated in their job by the management.

The workmen and the management each examined three witnesses in support of their respective case. The management produced documents which are marked Ext. M-1 to M-6/3. The workmen did not get any document exhibited.

Some of the facts in these cases are admitted. It is the admitted case of the parties that Ratan Gope and Madan Gope had agreed to sell their land to the management of M/s. BCCL and for that purpose the parties had entered into an agreement dated 11-9-82 and the said agreement is Ext. M-5 in the case. The terms of the agreement to sell the land are stated in Ext. M-5 and both the parties rely on the terms and condition contained therein. It is also now agreed that Jagbandhu Gope had raised dispute firstly before the Revenue authorities in respect of the land which was agreed to be sold by Shri Ratan Gope and Madan Gope and that after Jagbandhu Gope failed before the Revenue authority, he has filed title suit No. 74 of 1985 claiming the land in question as their own. The defendants have filed their respective W. S. in the said suit and the same is still pending. The plaint of title suit No. 74 of 1985 is Ext. M-6 in the case and the W. S. of defendant No. 1 and 2 Ratan Gope and Madan Gope is Ext. M-6/1, the W.S. of defendant No. 3 and 4 namely BCCL and General Manager of Area No. VII is worked Ext. M-6/2 and W. S. of proforma defendant No. 5 is Ext. M-6/3 in the reference. It is also admitted case of the parties that in terms of the agreement Ext. MW-5 the management by their office order dated 1-10-82 appointed the concerned workman Shri Amarlal Gope and Dasrath Gope

along with other dependants of the land losers as badli loader/miner with effect from 24-9-82 as per agreement whereby land was sold to the BCCL for company's purpose. The said once order is Ext. M-1 in the case, and it is admitted that the concerned workman Shri Amarlal Gope and Dashrath Gope started working as Miner/Loader with effect from 1-10-82. Ext. M-3 and M-4 are affidavits by Ratan Gope and Buttan Gope declaring that the land agreed to be sold by them to the management of BCCL belongs to them and that the land agreed to be sold are free from all liabilities and litigation and that nobody else have got any right, title, interest over the said land except the vendors Ratan Gope and Madan Gope. They also stated in their affidavit that they shall be fully liable and responsible if any person claims the said land and that the authorities of BCCL will be at liberty to dismiss their dependants from their service. Thus the case of the management depends on the terms and condition of the agreement Ext. M-5.

WW-1 and WW-2 are Shri Amarlal Gope and Dashrath Gope who are concerned workmen of the two reference cases. They have stated that they were given employment in Bhagaband Colliery as Miner/Loader and that they were stopped work with effect from 24-5-84. They have stated that they had worked regularly and continuously since the date of their employment i.e. from 1-10-82 to 24-5-84 when their work was stopped by the management. They have stated that they have contributed towards C.M.P.F. They have also stated that the management did not issue any notice nor gave one months notice pay or retrenchment compensation when their work was stopped by the management. It will also appear from their evidence that the management of M/s. BCCL after taking the said land manufactured bricks after taking earth from the plots which was agreed to be sold to the management and that there was no objection or case at the time when the said land was given to the management by the land owners. All these facts are admitted and are not disputed by the management. The management had not given any notice or one months notice pay or retrenchment compensation to the concerned workmen at the time of termination of their service. It is also admitted by MW-1 that the management had utilised earth of the land which was agreed to be sold to the management by Ratan Gope and Madan Gope in the manufacture of bricks. Thus as I have stated above, there is no dispute over those facts.

The dispute between the parties in the two cases is whether the termination of the services of the concerned workman would amount to retrenchment or not. Section 2(oo) defines retrenchment and it means the termination by the employer of the services of a workman for any reason whatsoever otherwise than as a punishment inflicted by way of disciplinary action but does not include voluntary retirement of the workman on reaching the age of superannuation if the contract of employment between the employer and the workman concerned contains a stipulation in their behalf or termination of the services of a workman on the ground of continuous ill health. Subsequently amendment to Section 2(oo) of the I.D. Act came into force from 18-8-84 by adding sub-clause (bb) to Section 2(oo) by Industrial Disputes Amendment Act, 1984 (Act 49 of 1984). By the said amendment sub-clause (bb) was added to section 2(oo) and it reads as follows :—

Clause (bb)

"Termination of the services of the workman as a result of non-renewal of the contract of employment between the employer and the workman concerned on its expiry or such contract being terminated under a stipulation in that behalf, contained therein."

The statement of chiefs and reason relating to the passing of the amendment of sub-clause (bb) to Section 2(oo) states that "difficulties have arisen in the interpretation of the expression retrenchment. It is proposed to exclude from the definition of retrenchment as contained in the Act, termination of the services of a workman as a result of non-renewal of the contract of employment on its expiry and of the termination of such contract in accordance with the provisions thereof. This amendment of sub-clause (bb) introduced in Section 2(oo) of the I.D. Act came into effect from 18-8-84. But the services of the concerned workmen were terminated with effect from 24-5-84. As the services of the concerned workmen were terminated prior to 18-8-84 the said amendment of sub-clause (bb) to Section 2(oo) of the I.D. Act cannot hit the case of the concerned workmen as the said clause (bb) was not retrospec-

tive in its effect. Had the services of the concerned workmen been terminated after 18-8-84 the management could have taken advantage of the amendment in clause (bb) in order to succeed that the services of the concerned workmen were terminated in terms of the contract envisaged in Ext. M-5. The position thus is that when clause (bb) to Section 2(oo) is not applicable in the case of the concerned workmen, the termination of the services of the concerned workmen will amount to retrenchment as admittedly they had continuously worked for more than 240 days in a year prior to their termination and neither notice nor one months notice pay nor any retrenchment compensation was given to them.

No doubt there are terms and conditions mentioned in the agreement of land sale in Ext. M-5. It will appear from this agreement or sale of land by Shri Buttan Gope and Ratan Gope and others that the consideration amount of the sale deed was to be paid at the time of occupation and registration of sale deed and that the purchase was to be completed within 3 months from the date after the necessary permission for the transfer of the land will be obtained from the additional Dy. Commissioner, Dhaanband by the purchaser paying the full consideration amount and the vendors executing the sale deeds. It is further stipulated that the possession of the land will be with the vendor till the consideration money is paid but the purchaser will be allowed to execute mining/other operations on the said land and that the vendors of the lands will be provided by the purchaser with service as badli loader/miner and if the vendors fail to execute the document within the period stipulated above or any type of litigation is found in the lands, any time purchaser will be at liberty to terminate the services of the person given employment by the management. Thus according to the terms of this agreement although the lands were not actually sold to the management of BCCL, they were allowed to execute mining and other operations on the lands agreed to be sold by Buttan Gope and Ratan Gope and employment was provided to the concerned workmen as badli loader/miner as per terms of the proposed sale of the land by Buttan Gope and Ratan Gope to the management of BCCL. It was on the basis of the said agreement that the management had entered over the lands agreed to be sold to them for the purpose of mining i.e. for taking earth for manufacturing bricks and the concerned workmen were given employment. Admittedly the sale deeds have not been executed in respect of the said land as admittedly Jagbandhu Gope has raised dispute regarding his right, title and possession over the land which was agreed to be sold to the management by Buttan Gope and Ratan Gope. There is no doubt about the stipulation in the agreement that in case there is any litigation in respect of the land agreed to be sold to the management of M/s. BCCL by Buttan Gope and Ratan Gope the employments given to their dependants would be terminated. But the question is whether the services of the concerned workmen could be terminated on the basis of the said agreement without complying with the provision of Section 25F of the I.D. Act. Till before the amendment of Section 2(oo) by introducing sub-clause (bb) any termination by the employer of the services of workman for any reason whatsoever otherwise than the circumstances stated therein was retrenchment and as the definition of Section 2(oo) did not contain clause (bb) at the time of the termination of the services of the concerned workmen, their termination on the ground of a stipulation in the agreement of sale will also amount to retrenchment. As admittedly the provision of condition precedent to retrenchment of workmen under Section 25F has not been complied with by the management, the termination of the services of the concerned workmen which amounts to retrenchment is not justified and the management is not entitled to terminate the services of the concerned workmen.

In view of the acts, evidence, circumstances discussed above I hold that the termination of the services of the concerned workmen by the management from 24-5-84 is not justified and accordingly the concerned workmen are entitled to be reinstated in their job by the management with effect from the date of their termination of services.

In the result, the demand of the concerned workman Shri Dashrath Gope and Shri Amarlal Gope, ex-miner/loader of Bhagaband colliery of M/s. BCCL, whose services were terminated by the management of the said colliery from 24-5-84 is not justified. The management is therefore direct-

ed to reinstate them in their job with effect from 24-5-84 with full back wages and consequential benefits within one month from the date of publication of the Award.

Sd/-

I. N. SINGHA, Presiding Officer

[No. L-20012/106/86-D.III(A):D.IV(A)]

का.सा. 3930.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 18 के अनुसरण में, केन्द्रीय सरकार, मै. इंडियन आयरन-एण्ड स्टील को. लि. के प्रबंधन ने सम्बन्धित नियोक्तों और उनके कर्म-कारों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, संख्या 2 धनबाद के पंचाट को प्रस्तुत करती है जो केन्द्रीय सरकार को 20-9-88 को प्राप्त हुआ था।

S.O. 3093.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal No. 2, Dhanbad as shown in the Annexure, in the industrial dispute between the employers in relation to M/s. Indian Iron & Steel Co. Ltd. and their workmen, which was received by the Central Government on the 20th September, 1988.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (No. 2), AT DHANBAD

Reference No. 49 of 1986

In the matter of an industrial dispute under Section 10(1)(d) of the I.D. Act., 1947

PARTIES :

Employers in relation to the management of Jitpur Colliery of M/s. Indian Iron & Steel Co. Ltd., and their workmen.

APPPEARANCES :

On behalf of the workmen.—Shri B. B. Pandey, Advocate.

On behalf of the employers.—Shri R. S. Murthy, Advocate.

STATE : Bihar.

INDUSTRY : Coal.

Dated, Dhanbad, the 12th September, 1988

AWARD

The Government of India, Ministry of Labour in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act., 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/236/85-D.III(A), dated, the 21st January, 1986.

SCHEDULE

"Whether the action of the management of Jitpur Colliery of the Indian Iron & Steel Co. Ltd., P. O. Jitpur (Dhanbad) in dismissing the workman, Shri Kailash Narijan, from service for his unauthorised absence beyond ten days, with effect from 14-3-1984, is justified? If not, to what relief the concerned workman is entitled?"

The case of the workman is that the concerned workman Shri Kailash Harijan was originally appointed as permanent miner on 20-11-1971. He lost his mental balance due to illness and as such underwent medical treatment for the same. He remained under the treatment of the colliery doctor from 5-1-80 to 19-4-80. His condition did not improve and further deteriorated in spite of his treatment of the colliery doctor. His relative became anxious for his health and as such he was taken to Ranchi Mansik Arogyashala, Kanke where he underwent medical treatment. He remained under the treatment of Dr. A. B. Singh, Psychiatrist and Neurologist, Ranchi Mansik Arogyashala since

28-4-80 to 23-5-84. While the concerned workman was undergoing medical treatment for his mental disorder, the management issued a chargesheet with false allegations and he was forced to appear in the domestic enquiry. The concerned workman was suffering from mental disorders when the chargesheet and the domestic enquiry was conducted against him and as such he was not in a position to understand the charge made against him and to defend his case properly in the domestic enquiry. The domestic enquiry held against the concerned workman was forced, uncalled for and vitiated. The finding of the enquiry officer in the said domestic enquiry was perverse. The dismissal of the concerned workman on the basis of the finding on the said enquiry was bad and the action of the management in dismissing him from service with effect from 14-3-84 was unjustified and as such the concerned workman is entitled for reinstatement with full back wages. It was further submitted that the punishment of dismissal under the aforesaid circumstances was too harsh and disproportionate to the alleged misconduct.

The case of the management is that this very dispute was previously raised by the present sponsoring union before the ALC(C) vide letter dated 28-8-84. But the previous dispute was dropped. The union had admitted in the said letter that the concerned workman was no longer fit for employment and that the employment should be provided to his dependant. Subsequently the union vide their letter dated 5-6-85 took a different stand and demanded the reinstatement of the concerned workman and raised a dispute before the ALC(C), Dhanbad. There was inconsistency in the stand of the union in his letter dated 28-8-84 and its subsequent letter dated 5-6-85 addressed to the ALC(C), Dhanbad.

The concerned workman was employed in Noonidih Jitpur Colliery, since prior to 1980 as Miner. He reported sick at the colliery hospital on 5-1-80 and received treatment at the hospital upto 19-4-80. Thereafter he left the colliery without any information and absented from duty without any sanction of leave or permission and without satisfactory cause. The management waited for a very long time for the concerned workman to return to work and ultimately issued him with a chargesheet dated 29-3-82 under Standing Order 27(16) of the Certified Standing Order of colliery. In reply to the said chargesheet Smt. Tetri Harijan, wife of the concerned workman, submitted an undated letter which was countersigned by the concerned workman. In the said reply she stated that after coming from duty on the very previous day of reporting sick the concerned workman felt headache. The Sr. Medical Officer Dr. B. R. Gupta was fully convinced about the illness of the concerned workman when he reported sick. The treatment continued for months but there was no fruitful result. She further stated that the doctor was requested to refer the case of the concerned workman to Ranchi Mansik Hospital as the doctor had declared the concerned workman to be mad. She also requested the management to employ her or Shri Pawhari Rabidas, brother of the concerned workman. The management did not consider the aforesaid reply submitted by the wife of the concerned workman as satisfactory and ordered for a detailed enquiry under intimation to the concerned workman. Shri R. Mohan, Asstt. Manager (PL) was appointed as enquiry officer to hold a detailed enquiry into the charge framed against the concerned workman. The concerned workman fully participated in the domestic enquiry and he took the assistance of a co-worker to help him in the domestic enquiry. The witness of the management were examined in presence of the concerned workman and his co-worker and they were given opportunity to cross examine the management's witnesses. The concerned workman also gave his own statement but did not examine any witness in his defence. The last date of enquiry was 4-3-82 on which date the concerned workman produced a medical certificate dated 24-4-82 stated to have been issued by one Dr. F. Ansari, Ayurveda Charya, Physician and Surgeon, Sakarauli Bazar, Deoria, U.P. in which it was stated that the concerned workman was suffering from mental disease since 5-1-81 and that he was under his treatment and that the concerned workman could not be cured and had become completely mad and is no more fit to resume his normal duty. After completing the enquiry, the enquiry officer found the concerned workman guilty of the charge framed against him. The enquiry officer also observed in his enquiry report that the concerned workman was in a sound

state of mental health and there was absolutely no trace of insanity during the enquiry proceeding. Considering the enquiry report and all the papers in its connection the Agent of Noonidih Jitpur Colliery agreed with the finding of the enquiry officer and ordered for the dismissal of the concerned workman from service with immediate effect vide his letter issued on 14-3-84.

According to the management the domestic enquiry held against the concerned workman was in consonance with the principles of natural justice and the concerned workman was given all possible and reasonable opportunities to defend himself. The misconduct established against the concerned workman was of a serious nature to merit his dismissal from service. It is submitted on behalf of the management that it will be extremely dangerous for the management to keep in its employment a person with unsound mind which will prove to be a great bazar to the concerned workman as well as to other employees working in the mine. On the above facts it is submitted that the action taken by the management in dismissing the concerned workman from service with effect from 14-3-84 is justified and that the concerned workman is not entitled to any relief.

At the very outset the management had requested that as the concerned workman was dismissed from service after holding a domestic enquiry into the charges levelled against him it may first be decided as a preliminary issue whether the domestic enquiry held against the concerned workman was fair, proper and in accordance with the principles of natural justice. On hearing both the parties the said issue was taken up for hearing as a preliminary issue. The parties adduced evidence and thereafter this Tribunal by its order dated 10-6-88 passed an order on the preliminary issue holding that the domestic enquiry held against the concerned workman was fair, proper and in accordance with the principles of natural justice and fixed the case for hearing on merit on the materials which were already on the record of the domestic enquiry.

Now the points for consideration are (1) whether dismissal of the concerned workman from service for his unauthorised absence beyond 10 days with effect from 14-3-84 is justified and (2) whether the dismissal of the concerned workman was too harsh and disproportionate to the alleged misconduct.

It is the admitted case of the parties that the concerned workman Kailash Harijan reported sick at the colliery hospital on 5-1-80 and received treatment in the colliery hospital upto 19-4-80. It is also admitted that after 19-4-80 the concerned workman left the colliery hospital without any information and absented from duty without any sanctioned leave or permission. There is no assertion in the W.S. of the workman that the concerned workman had applied for any leave or obtained permission to absent himself on the ground of his illness. Ext. M-2 is the Out Patient department prescription of Jitpur Colliery Hospital of IlSCO. Issued in the name of the concerned workman which shows that he was treated in hospital for mental disorder and as not fit for duty. The concerned workman filed same medical certificate in this Tribunal which appear to be of dates subsequent to the enquiry proceeding and did not form part of the enquiry proceeding and as such those medical certificates could not be considered for deciding the issue. Moreover these medical certificates were not proved before the Tribunal. However, one medical certificate Ext. M-8 dated 29-4-82 was filed before the enquiry officer by the concerned workman on 23-10-82. The doctor issuing the said certificate was not examined before the enquiry officer. The said certificate shows that the concerned workman was suffering from mental disease since 5-1-81 to 24-4-82 and was under the treatment of Dr. F. Ansari and that the concerned workman could not be cured as he was completely mad and was no more fit to resume his normal duty at all. Thus this certificate shows that the concerned workman was mad and will not be fit to resume his normal duties at all. The truthfulness of the fact as stated in Ext. M-8 appears to be falsified by the statement of fact stated in paras 4 & 5 of the W.S. of the workman. It will appear from paras 4 & 5 of the W.S. of the workman that the concerned workman remained under the treatment of the colliery doctor from 5-1-80 to 19-4-80 but as his condition deteriorated his relatives took the concerned workman to Ranchi Mansik Arogyasala, Kanke, where he underwent medical treatment. It is further stated that the concerned workman remained under

the treatment of Dr. B. B. Singh, Psychiatrist & Neurologist, Ranchi Mansik Arogyasala since 28-4-80 till 28-3-84. If the concerned workman was under the treatment of Dr. B. B. Singh, Ranchi Mansik Arogyasala from 28-4-80 to 28-3-84, it could not be believed that the concerned workman was under the treatment of Dr. F. Ansari from 5-1-81 to 24-4-82. In case Medical Certificate Ext. M-8 granted by Dr. F. Ansari is believed it will mean that the concerned workman was not under the treatment of Dr. B. B. Singh of Ranchi Mansik Arogyasala during the period of 5-1-81 to 24-4-82. WW-1 Tetri Kumari wife of the concerned workman was examined before this Tribunal at the time of the hearing of the preliminary issue regarding the fairness and propriety of the domestic enquiry held against the concerned workman and she had stated that the doctor of Kanke Mansik Arogyasala had given her prescription which she possesses but has not filed them in this case. She has further stated that she had received Cash Memos in respect of the medicines purchased by her which are at her village home and has not filed it in this case. If really the concerned workman was granted prescription by the doctor of Kanke Hospital and medicines for purchased for him on the basis of the prescription, the workman must have filed it in order to establish that the concerned workman was being treated of his insanity at Kanke Mental Hospital.

Ext. M-1 is a petition dated 25-11-80 by the wife of the concerned workman in which she prayed that Pawhari Rabidas Younger brother of her husband, be given employment in place of her husband. It is nowhere stated in this petition that the concerned workman was under treatment at Kanke Arogyasala. The concerned workman in his statement before the Enquiry Officer stated that he was under treatment at colliery hospital upto 19-4-80 and thereafter he had left the colliery due to mental disorder. He further stated that he came many times for employment but he was not considered and then he left colliery. He has stated that he got the chargesheet and he came to attend the enquiry. He has further stated that now he is not in a position to continue job because he is not fit for work due to mental disorder. In cross-examination he has stated that he had given 2 or three applications when he had come for employment but he does not possess his copy. The concerned workman has not filed any document in proof of the fact that he had ever filed any application for giving him employment when he came to colliery prior to the submission of chargesheet against him. He clearly stated in his cross-examination that he is not fit for doing his work and is still continuing treatment. It is clear therefore that the concerned workman himself felt that he was not in a position to continue to do the job as he was not fit for the same due to his mental disturbance.

The evidence discussed above will show that the concerned workman has not been able to establish that he was absenting only because of his insanity. It will appear that he was coming in between for his employment in the colliery which shows that he was actually fit to work and as such he was demanding employment. Moreover during the enquiry proceeding there was no representation on behalf of the concerned workman that he was still in same and as such the enquiry may not be held against him. On the contrary he had appointed a co-worker Shri Jagdish Paswan to defend his case and his prayer was allowed by the enquiry officer. Even the said co-worker did not state before the enquiry officer at any stage that the insanity of the concerned workman was continuing and as such the enquiry may not be held against him.

Ext. M-3 dated 29-3-82 is the chargesheet issued against the concerned workman under clause 27(16) of the Standing Orders. It is alleged in the chargesheet that the concerned workman had reported sick to the colliery hospital on 5-1-80 and continued to attend the colliery hospital upto 19-4-80 and thereafter neither he reported for duty nor attended the hospital and as such remained absent from duty without leave and without permission which is a misconduct under clause 27(16) of the Standing Orders. Ext. M-4 is the reply to the said chargesheet under the I.T.I. of Tera Harijan wife of concerned workman and it also bears the ITI and signature of the concerned workman. It appears from Ext. M-4 that the chargesheet was received on 16-4-82. It is stated that the concerned workman was under the treatment of Sr. Medical Officer Dr. B.R. Gupta in the colliery

Harijan wife of concerned workman and it also bears the L.T.I. and signature of the concerned workman. It appears from Ext. M-4 that the chargesheet was received on 16-4-82. It is stated that the concerned workman was under the treatment of Sr. Medical Officer Dr. B. R. Gupta in the colliery hospital and remained in his treatment for months but he has not cured. It is further stated in Ext. M-4 that the concerned workman is still insane but no arrangement was done for sending him to Mental Hospital Ranchi as yet. She prayed therein that as the family was starving she or her Devar may be given employment after declaring Kailash Harijan medically unfit. This reply to the chargesheet as received by the management on 20-4-82 but it is nowhere stated that concerned workman was under the treatment for insanity in Ranchi Mental Hospital and it specifically states that till that date no arrangement had been made for sending the concerned workman to the mental hospital. It is clear therefore that the concerned workman was not under the treatment of doctor at Ranchi Mental Hospital till 20-4-82 although it is asserted in Para-5 of the W-3 of the workman that he was under the treatment of Dr. B. B. Singh of Ranchi Manik Arogyasal since 28-4-80 to 23-5-84. These facts stated in Ext. M-4 which is the reply to the chargesheet clearly falsifies the case of the workman that the concerned workman as being treated of his mental disorder at Kanka Mental Hospital.

The enquiry proceeding Ext. M-10 shows that the management examined Shri P. K. Acharya, Assistant and Shri K. C. Nagpal, M.O.s Clerk in presence of the concerned workman and his coworker Shri Jagdish Paswan and that they had also cross-examined the managements' witnesses. The concerned workman had given his own statement and he was cross-examined by the managements representative and the concerned workman did not produce any witness in the defence. Admittedly, the concerned workman as under the treatment at colliery hospital till 19-4-80 and thereafter he left the colliery. The question is whether the concerned workman had taken leave or permission for his absence after 19-4-80. The evidence of the two managements' witness show that the concerned workman did not apply for any leave nor he was given permission to absent himself from duty. The workmen also have not filed any document to show that the concerned workman had either applied for any leave or that any leave was granted to him. It was for the workman to establish the reasonableness of the absence of the concerned workman with satisfactory evidence but in the present case we do not have any evidence worth reliance to establish that the concerned workman had absented from duty with permission or leave on the ground of his insanity or any other ground. In my opinion the management has been able to show that the concerned workman had absented from duty without leave or permission and that the concerned workman has failed to establish that he had absented due to any sufficient cause. The ground of insanity for absence taken by the workman has not been established for all the period of his absence. It is quite possible that the concerned workman had become insane but there is no proof of the fact that he continued insanity during all the period of his absence till he was dismissed from service. I hold therefore that the concerned workman had absented from duty with effect from 20-4-80 for more than 10 days without leave or permission which is a misconduct under clause 27(16) of the Standing Order of the company and that the workman has failed to establish that the concerned workman had absented due to any sufficient cause.

In the result, I hold that the action of the management of Jitpur Colliery of M/s. TISCO in dismissing the concerned workman Shri Kailash Harijan from service for his unauthorised absence beyond 10 days with effect from 14-3-84 is justified.

The concerned workman absent without leave and permission for a pretty long period from 20-4-80 till the date of his dismissal on 14-3-84. The concerned workman himself has stated that he was still unfit to work and as such the order of dismissal of the concerned workman passed by

the management appears to be quite justified and is not at all harsh and disproportionate to the established misconduct.

This is my Award.

I. N. SINHA, Presiding Officer,
[No. L-20012/236/85-D. III (A)/D. IV (A)]

K. J. DYVAFRASAD, Desk Officer

का. भा. 3094.—औद्योगिक विवाद अधिनियम, 19 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पोस्टमास्टर जनरल बिहार पटना के प्रबन्धन से सम्बद्ध नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नं. 1, धनबाद के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-9-88 प्राप्त हुआ था।

S.O. 3094.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of Central Government Industrial Tribunal No. 1, Dhanbad, in the industrial dispute between the employers in relation to the management of Post master General Bihar, Patna and their workmen, which was received by the Central Government on the 16th September, 1988.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of a reference under section 10(I) (d) of the Industrial Disputes Act, 1947.

Reference No. 10 of 1987.

PARTIES :

Employers in relation to the management of Post Master General, Bihar, Patna.

AND

Their Workmen.

APPEARANCES :

For the Employers : Shri V. N. Ram, Asstt. Supdt. of Post Office.

For the Workmen : None.

STATE : Bihar.

INDUSTRY : Post Office.

Dated, the 26th August, 1988

AWARD

By Order No. L-40012/12/86-D. II (B), dated the 1st September, 1987, the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute to this Tribunal for adjudication :—

"Whether the action of the management of Post Master General, Bihar, Patna in terminating Shri Bharib Pd. Singh from service w.e.f. 15-11-1981 and not re-employment him as E. D. Packer is legal and justified, If not, to what relief & from what date, the concerned workman is entitled to?"

2. The case of the management of Post Master General, Bihar, as appearing from the written statement-cum-rejoinder submitted, is as follows :

The present reference is not maintainable since Bharib Prasad Singh, so called workman, is governed under special rule known as P&T EDAs (Conduct & Service) Rules, 1964 and not by the provisions of Industrial Disputes Act. The Appointing Authority i.e. Sub-Divisional Inspector of Post Offices, Central Sub-Division, Bhagalpur, notified the vacancy

for appointment to the post of extra-departmental Packer Rajaun on 1-2-1980 and the last date fixed for receipt of the application was 12-2-1980. Laldhari Ram, who was holding the post of Inspector of Post-Offices, Central Sub-Division, Bhagalpur, appears to have appointed Bhairob Prasad Singh as ED Packer on 12-2-1980 and he himself was relieved of his duty on the same date. Due publicity for the vacancy was not given as per instruction of Director General of Post & Telegraph, New Delhi. However, Bhairob Prasad Singh was allowed to join temporarily as Extra-Departmental Packer at Rajaun, but his appointment was illegal void abinitio and was made against the rules of the Department. P. N. Singh, Inspector of Post-Offices, Central Sub-Division, Bhagalpur, by order dated 15-3-1980 cancelled the appointment of Bhairob Prasad Singh and no notice was required to be given nor any reason was required to be assigned in support of the order. Rule 6 of P&T, EDAs (Conduct & Service) Rules 1964 envisages that the services of ED employees who have not rendered more than three years continuous service from the date of their appointment, shall be liable to be terminated by the Appointing Authority without any notice. Bhairob Prasad Singh was never appointed as ED Packer, Rajaun after 15-3-1980. His service was terminated on 15-3-1980 and not on 15-11-1981. As a matter of fact Bhairob Prasad Singh did not apply for the post in pursuance to notification dated 5-4-1982 and only two candidates, namely, Chandra Kishore Prasad Singh and Gopal Prasad Singh applied for the post and the Appointing Authority appointed Chandra Kishore Prasad Singh on 26-4-1982 and Shri Singh joined the post on 30-4-1982. In the circumstances, it has been submitted by the management that its action is justified.

3. Bhairob Prasad Singh of village Bhusie, P. S. Rajaun, Distt. Bhagalpur, submitted his statement of claim-cum-written statement and his case is as follows :

He was appointed on 15-2-1980 as ED Packer by Inspector of Post Office Central Division against substantive vacancy and he joined the post on 14-2-1980. P. N. Singh, Inspector of Post Office, by his order dated 15-3-1980 terminated his service without any reason and without issuing any notice and charge-sheet. On 19-3-1980 he was again engaged as ED Packer and he worked to the satisfaction of his superior. While acting as such he represented his case to the Regional Director of Postal Service, Ranchi against the high handed action of the Inspector, but to no effect. His service was ultimately terminated on 15-11-1981. But before terminating his service no notice was given to him nor was any reason assigning for termination of his service. He has put in more than 240 days service preceding 12 months from the date of termination of his service and as such he is entitled to the relief Under Section 25-F of the Industrial Disputes Act. The management has appointed Chandra Kishore Singh in violation of the Industrial Disputes Act. In the circumstances, he has prayed that the action of the management in terminating his service be held as illegal and unjustified.

4. After the above reference regarding industrial dispute was received in the office of the Tribunal, Bhairob Prasad Singh, the concerned workman appeared personally and filed a petition dated 14-9-1987 praying for time to file written statement and he was granted time till 18-11-1987 to file written statement. On the date fixed he appeared and filed written statement. Next date was fixed on 25-11-1987 for filing written statement by the management. On that date Bhairob Prasad Singh, the concerned workman, appeared, but none appeared for the management. Anyway, the management was given time till 21-12-1987 to file written statement. On 21-12-1987 V. N. Ram, Asstt. Supdt. of Post Office appeared without letter of authority. He was directed to file letter of authority and written statement-cum-rejoinder by 15-1-88. The workman did not appear on that date. On 15-1-88 Shri Ram appeared and filed his letter of authority, but not the written statement-cum-rejoinder. The workman did not appear on that date. The management was directed to file

written statement-cum-rejoinder by 15-2-1988. On the date fixed Shri Ram appeared and filed written statement-cum-rejoinder. The workman did not appear on that date. The next date was fixed on 7-3-1988 for filing rejoinder by the workman. On the date fixed he did not appear and notice was issued by registered post to him directing him to file rejoinder by 7-4-1988. The registered notice was, however, returned by postal authority with the remark Depositor died. Return to the sender. In the circumstances, the management was directed to produce the death certificate of the concerned workman from the local Mukhiya. The management, in conformance to the order of the Court, has produced the death certificate of the concerned workman along with a petition of even date. The death certificate bears out that the concerned workman left mortal world on 6-12-1987. The record bears out that immediately before his death the concerned workman appeared and filed written statement on 18-11-1987. That being so, it appears that he died almost immediately after he filed his statement of claim.

5. The notice issued to him under registered post also bolsters the fact that the concerned workman is no more in the land of living because the return of postal authority is indicative of the fact that the concerned workman has expired.

6. Admittedly, Bhairob Prasad Singh was temporarily appointed Extra-Departmental Packer at Rajaun by Shri Laldhari Ram Inspector of Post-Offices, Central Sub-Division, Bhagalpur by order dated 12-2-1980. Bhairob Prasad Singh has stated that he joined the post on 14-2-1980. It has been contended by the management that the appointment of Bhairob Prasad Singh was void abinitio. But the written statement of the management admits of the fact that Bhairob Prasad Singh was temporarily appointed by the Appointing Authority on 12-2-1980. That being so, the position taken by the management that the appointment of Bhairob Prasad Singh was void abinitio does not stand the test of reason. However, it is an admitted fact that the service of Bhairob Prasad Singh was terminated by Office Order dated 15-5-1980 issued by P. N. Singh, Inspector of Post Offices, Central Sub-Division, Bhagalpur. It is the case of Bhairob Prasad Singh that he was again engaged as Extra-Departmental Packer on 19-3-1980 and worked till 15-11-1981 when his service was again terminated. There is no vestige of evidence on record to prove this fact. As a matter of fact the management has taken the position that Bhairob Prasad was never appointed on 19-3-1980 and his service was never terminated on 15-11-1980 as claimed by him.

7. The crux of the question is whether the termination of service of Bhairob Prasad Singh by the management by order dated 15-3-1980 is justified or not. I have stated that Bhairob Prasad Singh had left the land of living. None of his heir has come forward to continue the present proceeding before this Tribunal. In the circumstances there is none to assail the action of the management in terminating the service of Bhairob Prasad Singh. This being so, I am constrained to pass the following award.

The action of the management of Post Master General, Bihar, Patna in terminating Bhairob Prasad Singh from service and not re-employing him as ED Packer is considered legal and justified in view of the fact that the present proceeding has not been continued.

In the circumstances of the case I award no cost.

S. K. MITRA, Presiding Officer.

[No. L-40012/12/86. D. 11 (B)1]

का. प्र. 3095.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अन्वय में, केन्द्रीय सरकार कैरिज एण्ड वेगन सुप्लायर्स, नार्वे रेलवे, लन्दन के प्रबन्ध से सम्बन्धित नियोजकों और उनके कर्मचारियों के बीच, अन्वय में निम्नलिखित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 21-9-88 प्राप्त हुआ था।

S.O. 3095.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Kanpur, in the industrial dispute between the employers in relation to the management of Carriage and Wagon Superintendent Northern Railway Lucknow and their workmen, which was received by the Central Government on the 21st September, 1988.

ANNEXURE

BEFORE SHRI ARJAN DEV, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL
KANPUR

Industrial Dispute No. 46 of 1986

In the matter of dispute between :

Divisional Secretary Northern Railway Karamchhari
Union 96/196, Roshan Bajaj Lane, Lucknow.

AND

Carriage and Wagon Superintendent Northern Railway
Lucknow.

AWARD

1. The Central Government, Ministry of Labour, vide its Notification No. L-41011/30/85-D.II (B) dated 21 April, 1987, has referred the following dispute for adjudication to this Tribunal :

Whether the action of the Management of Carriage and Wagon Supdt., Northern Railway in terminating the services of S/Shri Zulfikar Ullah and Mohd. Alam w.e.f. 1-9-77 is legal and justified? If not to what relief the workmen concerned are entitled to and from what date?

2. The industrial dispute in this case seems to have been raised by the Divisional Secretary Northern Railway Karamchhari Union Lucknow (hereinafter referred to as URKU) on behalf of the two workmen namely, 1. Shri Zulfikar Ullah and (2) Shri Mohd. Haleem.

3. The case set up by the Divisional Secretary with regard to these two workmen is that they were substitute Khalasis, Safaiwala under C & W Supdt. N. R. Charbagh, Lucknow. They were retrenched on 19-77 without observing the provisions of section 25-G I. D. Act and Rule 77 of I. D. Central Rules, 1947. S/Shri Ram Kripal, Laluram, Rakesh Kumar and Pyare Lal were recruited later on in the same cadre but at that time no information was given to the above named two workmen nor any preferential re-engagement was provided to them. The recruitment of the above named 4 persons was made in 1981. Thus the management also violated the provisions of section 25H I.D. Act. Hence the two workmen are entitled to be reinstated on duty on fullback wages w.e.f. 1-9-77.

4 With the claim statement has been filed photostat copy of a certificate alleged to have been issued by C&W Supdt. Lucknow, Annexure II showing that Shri Zulfikar Ullah workman had worked for 119 days between January 1977 and August 1977.

5. The defence is that between January 1977 and August 1977 both the workmen had worked as Casual Labours and whereas Shri Zulfikar Ullah had done work for 119 days Mohd. Alam had done work for 10 days in broken periods. Thus they had not attained the status of temporary workmen which could have been acquired by them only after working for a period of 120 days continuously. After August 1977, both the workmen did not join duties. The management denies that S/Shri Ram Kripal, Laluram, Rakesh Kumar and Pyare Lal were junior to the two workmen. S/Shri Laluram and Pyarelal were engaged as casual labour in January, 1977, alongwith the two workmen in question and S/Shri Ram Kripal and Rakesh Kumar were engaged as casual labours in the year 1978 for Kumbhmela duty. The Rule is that casual labour or substitutes who do not attend duty place for 45 days and do not informed

the department, they automatically get ceased from service. S/Shri Ram Kripal, Laluram, Rakesh Kumar and Pyarelal who are still working in the department were duly screened and selected by the Screening Committee. They have also completed more than 120 days of continuous service. Hence the two workmen have no right to be reinstated in service with full back wages as claimed by them.

6. In the rejoinder it is alleged that since, the two workmen were not informed about fresh recruitment it is incorrect to allege that they did not join duties. It is further alleged that Screening without information to retrenched workmen is illegal.

7. In support of the case of the workmen, from the side of the Union the affidavit of Shri Zulfikar Ullah alongwith photostat copy of the certificate which has been earlier referred to by me while stating the facts alleged in the claim statement has been filed. It was he only who has been produced for cross examination. Earlier alongwith the claim statement the affidavit of the other workman namely Mohd. Alam was filed but for reasons best known he was not produced in the witness box for cross examination. On the other hand, the management has filed the affidavit of Shri K. G. Bajpai, an employee of the Railway dealing with the case.

8. So far as the case of Shri Zulfikar Ullah is concerned it is admitted position of the parties that between January 1977 and August 1977 he had worked for 119 days in broken periods. In respect of the other workman, namely Mohd. Halim, there is no evidence from the side of the workmen except the admission made by the management in its written statement that he had worked for 107 days between January, 1977 and August, 1977. Thus from the admitted position and from the photostat copy of the certificate filed it becomes abundantly clear that both the workmen had not worked continuously for 120 days meaning thereby that they had not acquired the status of temporary workmen under rules.

9. The management's case is that the workmen had worked as casual labour whereas the case set up by the union is that they had worked as substitute Khalasi/Safaiwala. There also does not appear to be any dispute between the parties that w.e.f. 1-9-77 the two workmen had not worked. The question whether their services were terminated or they abandoned the jobs is to be examined.

10. The management's case is that these two workmen did not join duties after August 1977. On the other hand, the case of the union is that no preference was given to the two workmen by the management while making fresh recruitment in 1981, the management even recruited persons junior to the workmen. Let us examine the evidence and circumstances on the point.

11. The management witness Shri K. S. Bajpai, has corroborated the facts pleaded by the management in its written statement. In his cross examination he admits that when Zulfikar Ullah did not turn up for duty after August 1977, the management took no action against him. He further states that before making recruitment of S/Shri Ram Kripal and Rakesh Kumar in 1978, no notice regarding fresh recruitment was given to Shri Zulfikar Ullah about the screening of Shri Zulfikar Ullah. He has said that he was not called for screening test as he had not worked for 120 days.

12. On the other hand Zulfikar Ullah has stated in para 4 of his affidavit that S/Shri Ram Kripal Laluram, Rakesh Kumar and Pyarelal were recruited in 1978 and were screened in 1981. I may state here that these facts have not been stated in the same manner in the claim statement. All that has been stated is that the above named workmen were recruited in 1981. There is no mention of their having been recruited in 1978.

13. In para 4 of his statement in cross examination Shri Zulfikar Ullah has deposed that when in 1978 he learned that fresh recruitment was going to take place he made an application but he was not recruited. He has not even called for interview.

14. To me case set up by the management that the two workmen did not turn up of their own accord after August 1977 appear more convincing and reliable. In the preceding paragraph I have referred to the statement made by Shri Zulfiqar Ullah that when fresh recruitment took place in 1978 he also applied for duty. But curiously enough he could not furnish any proof regarding it. He admitted that he did not possess the copy of application filed by him. There is nothing to show that he or the other workmen ever made any complaint to the superior officers of work up the matter with them through the union that no preference had been given to them in the time of fresh recruitment.

15. It further appears from the claim statement and the affidavit of Shri Zulfiqar Ullah that the screening of the 4 workmen alleged to be junior to them was done in 1981. There is nothing to show that the two workmen ever took any steps for the redressal of their grievances with the superior officers either directly or through the union.

16. The reference order is dated April, 21, 1987. It means that at the most before ALC(1), the matter might have been raised about a year or two before the reference. From the certificate of working days it appears that he was a substitute casual labour Khalasi/safaiwala. But for the month of January 1977 and February, 1977 when he could work for 27 days and 28 days respectively, during the remaining months from March 1977 to August 1977 he could get work for 10 days in March, 11 days in April, 15 days in May, 14 days in June, 9 days in July and 8 days in the month of August. In view of the fact that he was not getting work for sufficient number of days during the last six months it was quite likely that he might have reverted to some other useful and paying job abandoned his duty place. This further gets corroboration from the fact that he did not keep in safe custody his casual labour card. He admits that he did receive the casual labour card. According to him it is not with him now nor he has filed it in this case. There is nothing even in this regard in respect of the other workmen. Had they not abandoned the job and had they been vigilant they would have surely taken no the matter about their non-recruitment a fresh in 1978 and in 1981 with the higher authorities of the railway. They would have also kept with them the casual labour card. It is no wonder if at the instance of the union or some of their erstwhile colleague on finding that there had been a substantial bounce in the wages on account of the report of IVth Pay Commission, they and their union might have thought to raise industrial dispute.

17. Hence I hold that it is not a case of termination or retrenchment but a case of abandonment of service by the workmen themselves. If a person himself abandons the job, the question of compliance of section 25G and 25H does not arise. Rule 77 of the ID Central rules 1957 to which reference has been made in claim statement has no application to the facts of the present case. It applies to a case where the workman had rendered one year of continuous service in terms of section 25B I.D. Act. In the instant case as observed above the two workmen had not even acquired the status of temporary workmen under Railway Rules. From the side of the workmen reliance has been placed on the ruling 1980 (III) SLR 358 (Pun & Her). I have gone through this ruling. It has no application to the facts of the present case. The case was with regard to a person who was given adhoc employment in the beginning for 3 months and later on extended by two months.

18. Hence, it is held that it is a case of abandonment of jobs by workmen themselves and not a case of termination of service. Accordingly two workmen are entitled to no relief.

19. Reference is answered accordingly

Dated : 31-8-1986.

Sd/-

ARJAN DEV, Presiding Officer.
[No. L-41011/30/85/DHI (B)]

का. आ. 3096.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इंडियन वेटरिनरी रिसर्च इंस्टीट्यूट के प्रबन्धन में सम्बद्ध निगोशकों और उनके कर्मचारियों के बीच, अनुबंध में निश्चित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक प्रतिक्रिया, कानपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 21-9-88 प्राप्त हुआ था।

S.O. 3096.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Kanpur, in the industrial dispute between the employers in relation to the management of Indian Veterinary Research Institute and their workmen, which was received by the Central Government on the 21st September, 1988.

ANNEXURE

BEFORE SHRI ARJAN DEV PRESIDING
OFFICER CENTRAL GOVERNMENT INDUS-
TRIAL TRIBUNAL-CUM-LABOUR COURT,
PANDU NAGAR, KANPUR U.P.

Industrial Dispute No. 24 of 1987

In the matter of dispute between :

Shri Rakesh Chandra Saxena S/o Shri Kailash
Narain Saxena House No. 53, Moh. Bhoor
behind Nawab ka Thara, Bareilly.

AND

The Director Indian Veterinary Research Insti-
tute Izatnagar Bareilly.

AWARD

1. The Central Government, Ministry of Labour, vide its notification No. L-42012/44/85. D-II(B), dt. 20-1-87 has referred the following dispute for adjudication to this Tribunal :

Whether the action of the management of Indian Veterinary Research Institute Izatnagar Bareilly in dismissing Shri R. C. Saxena, LDC from service is justified? If not, to what relief the concerned workman is entitled to and from what date?

2. The case of the workman in brief is that he was appointed as Lower Division Clerk in the Indian Veterinary Research Institute, Izatnagar, Bareilly. (hereinafter referred to as IVRI) in the prevailing grade of Rs. 110-180 in October 1966 in the Accounts Section. The Director, IVRI by means of his letter dt. 10-7-72, copy Ext. W-1. issued him a notice informing him that his services would stand

terminated w.e.f. the date of expiry of the period of one month from the date of its service. Against the said notice he made representations on 22-7-72, 5-8-72, 28-8-72, 10-9-72 copies Ext. W-2 to Ext. W-5 and 21-9-72 to the Director as well as to the Secretary of the Indian Council of Agricultural Research (hereinafter referred to as ICAR) New Delhi which is a society registered under the Indian Societies Act. Upon his representation the said notice was withdrawn by the Director IVRI by means of his letter dt. 3-10-72, copy Ext. W-6. Although the said notice was withdrawn by the Director, IVRI, on 3-10-72, the same day the Director IVRI placed him under suspension by means of his order copy Ext. W-7. He protested against his suspension order by means of his representation dt. 25-10-72 and 11-12-72 copies Ext. W-8 and Ext. W-9 respectively but to no effect. On 24-3-73, he was given chargesheet, copy Ext. W-10 in which it was also alleged that he had secured admission as a regular student in B.Com. Part I in Bareilly College, Bareilly, without obtaining prior permission and had attended a number of classes of the said college during office hours without informing the department and that he had falsely recorded his attendance with regard to his time of arrival on duty in their attendance register. As the chargesheet was not accompanied by annexures III & IV, he wrote a letter to the Director IVRI on 3-4-73, copy Ext. W-11, upon which he was required to collect the said annexures from the office on 12-4-73. However, copies of these two annexures were sent to him by the Director IVRI with his letter dt. 19-4-73 copy Ext. W-12. By the said letter of the Director, he was also required to submit his reply to the chargesheet on or before 25-4-73. On 25-4-73, he sent a representation copy annexure Ext. W-13 to the Sectt. ICAR, New Delhi, through proper channel.

3. On the other hand, the Director, IVRI by means of his letter dt. 15-5-73, copy Ext. W-14, with which he enclosed the copy of letter dt. 30-4-73, asked him to submit his defence statement within 3 days from the receipt of the letter. On 18-5-73, he made a representation, the copy Ext. W-15, the Director, IVRI, not to proceed further into the charges levelled against him till the disposal of his appeal pending with ICAR New Delhi. Without taking any decision on his said representation, the Director, IVRI, appointed Dr. O. N. Kunzru, Head of Division of Extension, IVRI, as Enquiry Officer.

4. The workman further alleges that Enquiry Officer, fixed 26th June 1973, as the first date for inquiry. On 26-6-73, as the E.O. was not available in his office and was on leave, he handed over to Shri A. K. Gupta, Steno, to the E.O. his representation, copy Ext. W-16. The Inquiry was adjourned for 10-7-73, and then adjourned for 24-9-73. On 24-9-73, he filed an application copy Ext. W-17, before the E.O. praying that till the decision of his appeal pending with ICAR, inquiry proceedings be stayed for two months. By means of his said application he also made the prayer that Shri D. C. Saxena, Cost Accountant be also examined at the

inquiry. The same day he also submitted another letter, copy Ext. W-18, to the E.O. However, the E.O. fixed 15-10-73 for further inquiry. During the inquiry proceedings without examining witnesses in support of the charge several questions were put to him by the E.O. and his answers were recorded. Even the copy of proceedings was not furnished by him in spite of his request made through his letter dt. 25-9-73, copy Ext. W-19. On 3-10-73, he made a representation, copy Ext. W-20, to the Director IVRI for changing the E.O. but to no result. On 15-10-73, he went to the office of E.O. to attend the inquiry proceedings but when the E.O. did not turn up for more than 2 hours he submitted a representation, copy ext. W-21, addressed to the E.O. in the Record Section of IVRI at 1.10 p.m. It appears that the E.O. thereafter fixed 5-11-73, as the date for further proceedings in the inquiry but no intimation was given to him. He learned about it through letter dt. 5-11-73, copy Ext. W-22 of the E.O. with which copy of proceedings dt. 5-11-73, were sent to him. On 20-11-73, he lodged a protest in writing copy Ext. W-23, that the E.O. held the proceedings dt. 5-11-73 in his absence without information of the date to him. He also requested to the E.O. to adjourn the proceedings as his request for change of E.O. was pending disposal with the Director. By means of his memo dt. 13-3-74, copy Ext. W-24, the E.O. fixed 25-3-74 as a date of further inquiry and informed him accordingly. With his letter the E.O. sent to him the copy of evidence produced by the Presenting Officer in support of the charges. On 25-3-74, he could not reach the office of the E.O., in time by 11.30 a.m. the E.O. closed the inquiry proceedings. The same day, he submitted a memorandum, copy Ext. W-25, to the E.O. which was received by Shri A. K. Gupta. Thereafter, he received the letter dt. 27/28-3-74, copy Ext. W-26 from the E.O. calling upon him to submit his written brief in support of his case if he so desired latest by 10-4-74. On 10-4-74 in reply to the above letter of the E.O. he delivered his representation copy Ext. W-27, to Shri A. K. Gupta. On 10-5-74, he sent another representation, copy Ext. W-28, to the Director IVRI, requesting him to let him know specific provisions prohibiting further education by an employee of IVRI. Copy of the said representation was also endorsed by him to the E.O.

5. On 19-7-74, the Director, IVRI, issued him a notice copy Ext. W-29, calling upon him to show cause within 15 days from the date of receipt of notice as to why not the penalty of removal from service be imposed on him. The time for submission of reply was extended by the Director vide his letters dt. 19-8-1974 and 30-8-1974. He filed his reply copy Ext. W-30, to the show cause notice in the office of the Director on 11-9-74. A copy of which had already been despatched by him by post on 10-9-74. Thereafter, by means of his letter dt. 5-11-1974, copy Ext. W-31, the Director IVRI removed him from service from the date of the receipt of the order by him. By means of his letter dt. 3-12-1974, copy Ext. W-32, he protested against the order of his removal from his service which was replied by Director vide his letter dt. 11-12-1974, copy Ext. W-33 justifying his removal from service.

6. The workman has challenged the order of his removal from his service on a number of grounds set out in para 29 of his claim statement. According to him, the charges levelled against him were baseless. Merely by joining educational institution or appearing in University Examination he had not contravened any rules and regulation governing the conditions of his service. There was no charge against him that he did not perform his duties. Passing an order of suspension simultaneously with the withdrawing of notice of termination smacks of malafide on the part of the management. Further although he was suspended w.e.f. 3-10-1972 he was served with a chargesheet after a lapse of about 6 months which amounted to an unfair labour practice. Besides the inquiry was not conducted fairly and properly by the E.O. The chargesheet with regard to his attending a number of classes in the Bareilly College, falsely recording attendance in attendance register and manipulation of entries therein was vague regular. He having no intimation of the date of hearing dt. 5-11-73, he was deprived of proper opportunity to defend himself. The documents produced during the inquiry proceedings were not proved. The defence evidence given by the presenting officer should not have been considered at all, when it was not mentioned in the chargesheet. He was also given copies of documents referred to in annexure III to the chargesheet. Charges regarding his failure to maintain integrity and devotion to duty remained unproved. On 20-11-73, no proceedings over took place and the E.O. wrongly reported that he had said that he had nothing to say in his defence. The findings given by the E.O. are perverse being based on surmised and conjectures. The Central Civil (Service Conduct) Rules, 1964 are not applicable to employees of I.C.A.R. He was also discriminated as Shri R. P. Trivedi, Shanker Nath, Prakash Chandra Saxena, Ved Singh and Shri O. P. Khare appeared in the examinations of Agra University prior to 1973, without obtaining prior permission of the department but no action was taken against them. During the inquiry proceedings he was not allowed adequate opportunity to defend himself nor he was allowed any personal hearing after service of show cause notice on him. In any case the punishment awarded to him was harshed. He lastly alleges that against the order of removal from service he took up the matter with New Rashtriya Karmachari Sangh Bhartiya Bhu Anusandhan Shala (hereinafter referred to as Karmchai Sangh) but to no effect. He therefore, filed an application before the Regional Conciliation Officer Bareilly, on failure of these proceedings, the dispute was referred to Labour Court U.P. Bareilly for adjudication vide G.O. Dt. 23-5-80 under U.P. Industrial Disputes Act. The employers took up an objection with regard to the jurisdiction of the Labour Court U.P. but it did not find force with the labour court. The employers then filed a writ before the Hon'ble High Court of Allahabad which upheld the objection of the employer and allowed the writ petition on 13-11-1984, thereafter the reference has come to this Tribunal.

7. He has, therefore, prayed that he be reinstated with continuity of service alongwith full back wages and other consequential benefits.

8. The management in its reply while admitting the fact that the workman was employed as L.D.C. in October, 1966, has pleaded that his appointment was on

probation which was extended upto 31-3-1970, on account of his unsatisfactory work. He earned adverse remarks for the period 20-9-1971 to 31-12-1971 and 1-1-1972 to 2-10-72. The management further, while admitting the date of suspension order and the date of chargesheet, pleads that it is not necessary under law to issue the chargesheet alongwith the suspension order. The management has not specifically challenged the facts alleged by the workman in paras 3 to 5 of his claim statement with regard to issue of notice dt. 10th July 1972, thereafter, his services, on the expiry of the period of one month from the date of service of notice and its subsequent record on the various representations made by the workman. The management denies that the workman's representation dt. 25-10-72 and 11-12-72 made against the order of suspension were not replied. In fact on a careful consideration of the said representation it was not possible to revoke the suspension order at that stage and in this regard the workman was duly informed by the Director, I.V.R.I., through his memo dt. 20-12-72, copy annexure I. The management further denies that annexures III & IV of the chargesheet were not received by the workman. In fact these annexure were duly enclosed with the chargesheet dt. 24-3-73, sent to the workman by registered acknowledgement due letter. However, on the request of the workman their copies was given supplied to him as admitted by him in the claim statement. The management then denies that the workman sent his representation dt. 25-4-1973, to the Sectt. ICAR, New Delhi, through the Director. In fact the representation was sent directly by him to ICAR and a copy of the same was endorsed to the Director I.V.R.I. The copy was received in the record section of I.V.R.I. on 25-4-1973. Since the issue raised in the said representation related to the IVRI, a suitable reply was sent to the workman through letter dt. 30-4-1973, which fact is also admitted by the workman in his claim statement. By means of it the workman was also asked to submit his defence statement within 3 days from the date of its receipt making it clear that in case no reply is received from him within the stipulated period it would be presumed that he had no defence to produce. After waiting for about a fortnight the workman was given one more opportunity for submitting his defence statement vide memo dt. 15-5-1973, the receipt of this memo has also been admitted by the workman in his claim statement. Instead of submitting his defence statement the workman resorted to delaying tactics. He made representation requesting the management not to proceed further with the inquiry on the basis of the chargesheet given to him pending disposal of his appeal in the ICAR. The said representation referred to his earlier representations dt. 10-9-1972, 25-4-1973. His representation dt. 10-9-1972 was with regard to setting aside the impugned notice of termination which the Secretary ICAR (Appellate Authority) withdrew it. The Secretary's decision in this regard and with regard to holding of regular Disciplinary Proceedings under CCS (CCA) Rules, 1965 was duly conveyed to the Director IVRI vide D.O. dt. 16/18-9-72, on the basis of which notice given with regard to termination of workman's service was withdrawn. As such no appeal was pending on the date of representation dt. 18-5-1973. His other representation dt. 25-4-1973 was also replied on 30-4-1973.

9. The management admits that the E.O. had fixed 26-6-1973 as the date for holding enquiry. Since the E.O. fell ill, the E.O. adjourned the inquiry to 10-7-73. Even on 10-7-1973, due to continued illness of E.O. the inquiry was adjourned to 24-9-1973. The workman attended the inquiry proceedings on 24-9-1973. It was confined to admission or denial of the charges by the workman. The workman was further asked to name the defence Assistant and the documents which he would like to inspect before putting of his defence. Similarly the Presenting Officer was asked by E.O. to indicate the evidence/documents which he produced in support of the charges against the workman. After hearing both the sides the E.O. adjourned the case to 15-10-1973 requiring the workman to furnish to the E.O. the list of documents to be inspected by him and the name of the defence Assistant by 29th September, 1973. The workman never filed the list of documents nor inspected the documents and also did not intimate the name of his defence Assistant. Rather he made another representation dt. 3-10-1973. Since no evidence was recorded on 24-9-73, the question of furnishing of copies of proceedings to the workman did not arise at all.

10. Workman's representation dt. 3-10-1973, for removing the E.O. Dr. O. N. Kundru and the Presenting Officer Shri R. K. Sachdeva was duly considered by Disciplinary Authority and was rejected and intimation in this regard was given to him by memo dt. 11-10-1973, copy annexure 6, by the Director, IVRI. Although the workman was available at the instant on 11-10-1973 he declined to receive the said memo. Therefore, it was sent to him by registered A/D post but the same was returned by the Postal authorities undelivered with the remark 'LEFT WITHOUT ADDRESS'. Even then a peon was deputed to deliver it at his residence but to no result.

11. On 15-10-1973, the workman handed over to the E.O. his representation at 11.07 a.m. requesting him to stay the inquiry proceedings. The representation was rejected by the E.O. as there was no fresh and sufficient grounds to stay the proceedings. Copies of representation and copy of order of E.O. are Annex. VII & VIII respectively. After the rejection of the representation, the E.O. fixed 5-11-1973, as the next date of hearing. Intimation of the next date of hearing was sent to the workman by registered A/D Post vide memo dt. 15-10-1973, by the E.O. However, it was returned undelivered by postal authorities with the remark "ADDRESSEE LEFT WITHOUT ADDRESS". Thereupon a peon was deputed for delivering the aforesaid memo at his residence. According to the peons report the younger brother of the workman met him at his house, who told him that the workman had gone to the market. His brother refused to accept the memo. The peon then searched him in the market but could not find him out. The E.O. therefore, conducted the proceedings on 5-11-73 in the absence of the workman. The workman made another representation on 20-11-1973, for postponing the enquiry but the same was rejected by the E.O. On 20-11-1973, after saying that he had nothing to say in his defence the workman went away. He also refused to sign the proceedings. Vide Memo dt. 13-3-1974, the E.O. informed the workman about

the next date fixed in the inquiry i.e. 25-3-1974. By the said memo, the workman was further informed that there was no objection to his taking assistance of Shri G. S. Saxena, in his defence. With the memo the E.O. also furnished the workman with the copy of additional evidence produced by the Presenting Officer in support of the charges levelled against him. On 25-3-1974, the workman did not turn up upto 11.30 a.m. whereupon the E.O. closed the proceedings and required both the sides to submit written briefs in support of their respective cases, if they so desired by 10-4-74. It was thereafter, that the workman with his defence assistance turned up and presented a representation. They were informed about the proceedings of that date and asked to submit written brief, as ordered, latest by 10-4-1974. On 10-4-1974 the workman again made a representation to the E.O., who rejected the same. The workman sent another representation dt. 10-5-1974. Since the inquiry set up against him had already been closed, it did not call for any action.

12. The management contends that the inquiry was held fairly and properly and that the penalty of removal from service imposed on the workman was fully justified in view of the facts and circumstances of the case.

13. According to the management there is no force in the contention of the management that CCS (Conduct) Rules 1964 are not applicable to the employees of ICAR. The management denies that it is within its knowledge that 6 persons named by the workman appeared in the various examinations of Agra University prior to 1973. However, from the records available in the case, it has been found that Shri R. P. Trivedi and O. P. Khare had been allowed permission on their application on their application for joining B. Com. classes. In the alternative even the persons named appeared in the classes and passed the examination in contravention of service rules and Regulations that would not entitled the workman to join college as a regular student without prior permission from the Institute. The fact remain that the workman joined Bareilly College, Bareilly, as a regular student without obtaining prior permission from the office and attended the classes during office hours. At the same time he manipulated entries in the attendance register of Central Stores/Accounts Section of B. P. Division of the Institute. It was not at all necessary on the part of the Disciplinary Authority to allow a personal hearing after issue of a show cause notice to him. Against the order of his removal from his services the workman filed an appeal and also a review application but the same were rejected. In the circumstances, the workman is entitled to no relief.

10. In this case the workman was filed his rejoinder but in his rejoinder it does not seems to have pleaded any new material fact.

11. In support of his case, the workman has filed his own affidavit and in support of its case, the management has filed the affidavit of Shri S N Mishra, Assistant Administrative Officer. Both the sides have also filed a number of documents in support of their respective cases.

12. The admitted facts are that the workman was appointed as LDC some time in October 1966; that on 10-7-72, the Director, IVRI issued to the workman a notice of termination from his services within one month from the date of its receipt; that on the representation of the workman the above notice was withdrawn by the Director, IVRI, by his order dt. 3-10-72; that by another order of the same day i.e. 3-10-72, the Director, IVRI, placed the workman under suspension with immediate effect on the ground that disciplinary proceedings against him were contemplated and that the workman was issued a chargesheet by Director, IVRI on 24.3.

13. Now let us see what the charges against the workman were. The same and substance of these charges is as follows :—

- (i) That the workman secured admission as regular student of B.Com. Part I, course at Bareilly College, Bareilly on 7-8-71, with enrolment No. A-6517532 of Agra University;
- (ii) That the workman attended various classes during the academic session 1971-72, during office hours;
- (iii) That the workman appeared in the Agra University examination of 1972 held during the period 8-4-72 to 21-4-72 (note—According to the chargesheet issued by the Director IVRI,) all the above acts were done by the workman without obtaining permission of the competent authority; that the workman falsely recorded in the attendance register time of his arrival for duty; that the workman manipulated entries therein i.e. in the attendance register to accord with the scheduled office hours on most of the dates (7-8-71 to 21-4-72); that despite issue of memo dt. 29-1-72 by the Head of the Division of Biological products, the workman was informed that he was not usually found in office and advised him to refrain from such activities but despite that he did not desist from attending classes in the Bareilly college nor did he applied for the permission of the same; but continued to attend the classes and record in the attendance register false time of arrival for duty to accord with the scheduled office-hours.

Because of the above mentioned facts it was stated in the chargesheet that he, therefore, failed to maintain absolute integrity and devotion of duty and hereby contravened Rule 37 CCS (Conduct) Rules 1964.

14. In annexure II to the chargesheet total Nos. of lectures delivered in each subject during the Session 1971-1972, and the total numbers of lectures attended by him in each subject were mentioned. The timings during which the various subject were taught

and the office hours were also mentioned. Office hours were given are as follows :

- (i) Upto 10th December, 1971 10 am. to 5 p.m.
- (ii) From 11th Dec., 1971 to 3rd Jan., 1972, 9 a.m. to 4.30 p.m.
- (iii) From 4th Jan., 1972 to 4th April, 1972, 9.30 a.m. to 5 p.m.
- (iv) From 5th April, 1972 onwards 10.00 a.m. to 5.00 p.m.

The periods during which subject of Economics and Accountancy and Law were taught during the above period are given as under :

- (i) Accountancy & Banking 10.00 a.m. to 10.40 a.m.
- (ii) Accountancy and Commer. Law 10.40 to 11.20 a.m.

Lectures delivered and lectures attended by him in the four different subjects are given in annexure II as under :—

Subject	Lecture Delivered	Lecture Attended
(i) Hindi	69	44
(ii) Commerce	163	99
(iii) Economics	143	88
(iv) Accountancy & Law	204	124

In annexures III & IV were mentioned the documents to be relied upon and the list of witnesses to be examined respectively in support of the above charges. The documents are; letter dt. 11-1-72 from the Bareilly College to Shri K. C. Sinha, Biologist, B.P. Divisions, (i). Programme of B.Com. Part I, examination of 1972, (ii) D.O. Letter dt. 2-6-72 from the Principal Bareilly College to the Director, IVRI, (iv) Attendance Register of Central Stores IVRI from 1-6-71 to Feb., 1972. (v) Attendance Register of Cost Accounts Section from March 1971 to December 1971 and Jan., 1972 to July 1972 and (6) memo dt. 29-1-72 issued by Head of Division of Biological Products of the workman. The witnesses named are the Principal Bareilly College, Bareilly, A.P.O. (P&E) IVRI and the Head of Division of Biological Products IVRI.

15. In his cross examination the workman has stated that he had applied for permission to join B. Com Part I at Bareilly College but according to him the permission was not granted to him till the time of his securing admission as a regular student. He never gave any reminder in this regard to the competent authority. He has candidly admitted that he does not possess the copy of the said application nor he has filed it. Of course he met the Stores Officer who had assured him that necessary permission would be granted to him in due course of time. He then admits that even after securing admission he never informed about it to his immediate officer what to say of Director, IVRI. There appears

to be no truth in his statement on both that he had applied for permission to join B.Com. Part I classes at Bareilly College, Bareilly. In the various representation made by him he nowhere made mention of such a fact. Therefore, had he applied for permission to join the said course, such a fact would have found mention in these representations.

16. In his cross examination he has admitted that he was aware of the facts as to what were the office hours and also the timings of B.Com. classes. According to the College Time Table timing of his class hours clashed with the timings of office hours. He further admits that the classes were from 8 a.m. to 11.20 a.m. whereas the office hours were from 10 a.m. to 5 p.m. and during the Emergency period from 9.30 a.m. to 5.30 p.m. He also admits that he did his B.Com. in 1974.

17. Thus from the above facts it apparently comes out that the workman found cornered from both sides. If he said that he had attended the classes in order to qualify himself for appearing in the examination he would have found himself cornered on the point that he did not attend the office hours punctually and if on the other hand he said that he attended the office hours punctually, he could have attended the minimum of the lectures prescribed in each subjects, specially two things are clashed with his office hours. In that even it was quite possible that Degree in B.Com. obtained by him might have cancelled by University. He, therefore, thought it proper not to file any reply to the chargesheet, and actually he did not file his reply to the chargesheet till the end. Rather on the other hand he adopted the course of putting representations on one false pretext or the other to avoid his dooms days'. He therefore, sometimes challenged his suspension order and some times applied to the R.O. as well as to the Director IVRI for postponing the Enquiry Proceedings.

One of the plea raised by him was that his appeal was pending. I fail to understand where there did arise the question of appeal. When the notice of termination of his service was subsequently withdrawn by the Director, I.V.B.I. From his representation dated 25th April 1973, copy Ext. W-13 it is clear that he himself admitted that the director vide his memo dt. 20-12-72 informed him that revocation of suspension order was not possible.

18. One of the main grievances of the workmen was that copies of documents relied upon by the department in support of the charges were not furnished to him.

19. In this connection it is better to look into the proceedings of the Domestic Enquiry dated 24-9-72. The relevant portion of the proceedings reads as under :—

Shri. Rakesh Chandra Saxena, is hereby allowed to submit a list of documents which he would like to see and also nominate a person who would assist him in proceedings.

Accordingly he should submit the list of documents which he will like to see and the name of the person assisting him within 5 days from today i.e. 29-9-73 at 10.30 a.m. in the office of the R.O. He will be allowed to peruse the requisite documents as per rules on 1st October, 1973 at 11.00 A.M. in the Office of the R.O.

It is thus clear that the R.O. gave the workman full opportunity to inspect the documents. However, from the documents filed by the workman and the proceedings of the domestic inquiry, it appears that the workman did not avail of this opportunity; rather he went on making one representation or the other in order to deliberately cause delay in the conduct of the inquiry.

20. During the conduct of the inquiry, the conduct of the workman had never been open and above board. One of the dates fixed in the inquiry was 15-10-73. On 15th October 1973, what the workman did was that he made a representation to the R.O. 11.07 a.m. and thereafter, without awaiting for the order and the next date to be fixed by the R.O., he left the office of the R.O. immediately. The representation was rejected by the R.O., and he adjourned the enquiry to 5-11-73. On account of the workman having left his office immediately after delivering the representation, the Enquiry Officer, in the interest of justice sent information through memo dt. 15-10-73, by registered post. The registered envelop was received back with the postal endorsement left without address. The R.O. thereupon deputed a peon for delivering the said memo but he could not succeed. Paper No. 71 of the Enquiry proceedings refers to the report of the peon. The peon writes that when he went to the house of workman, he met the younger brother of the workman, who told him that the workman had gone to market. His brother refused to except the delivery of the letter. He then went to the market in search of the workman. The same facts finds place in the written statement which have been corroborated by the management witness. The address on the registered envelop was the same as was given by the workman in his representation dated 25th April, 1973, copy Ext. W-13. In the circumstances, all that was possible was done by the Enquiry Officer to inform the workman about the next date of hearing. In fact the workman on 15-10-73, should have waited for the orders of the D.O., on his representation and should not have left the office of the Enquiry Officer, unless he had been informed by the R.O. that the order on his representation had been reserved. Further if he had gone out station he should have informed about it to the R.O. and should have also left instructions with the adult members of his house to receive communication, if any, sent to him by the R.O. Even on earlier occasions his conduct was not open and above board. When he was served with the chargesheet, he represented that he had not received annexures III & IV with it. Ext. W-12 is the copy of memo dt. 19th April, 1973 from the Director, I.V.R.I., to the workman. It shows that by his earlier memos dated 6th April, 1973 and 7th April 1973, the Director, had informed the workman to collect the two annexures from him office on 12th April 1973 at 11 a.m. but the workman did not go to the office of the Director on the date fixed where-

upon, the Director had to send the two annexures with his memo dt. 19-4-73. This fact that he did receive memo dt. 6-4-73 from the Director stands established from his own letter dated 18th May 1973, copy Ext. W-15, addressed to the Director. In it he wrote that regarding question of giving me copies of documents in your memo dt. 6-4-73 he was asked to attend the office and obtain the same but for lapse of time this could not be achieved which was due to no fault of his. Despite his own fault he put the fault without any justification on others.

21. In the circumstances, the Enquiry Officer was fully justified to proceed with the inquiry on 5-11-73. The workman did not attend the proceeding on 5th November, 1973. On the said date the Presenting Officer presented documents P-1 to P-7 copies of which were filed by the management witness with his affidavit for filing the same as the same were not filed alongwith the inquiry proceedings by the management. On 16-6-88, Shri O. P. Mathur, the authorised representative for the workman, stated before the Tribunal that he had nothing to say even after the filing of the affidavit by the management with regard to these documents. On 5-11-73, the management also examined Dr. K.C. Sinha, Head of Division of Biological Products

22. On 5-11-73, the E.O. fixed the next date as 20-11-73. On 20th November, 1973, the workman did not come in time whereupon, the E.O. closed the proceedings of that date, at about 10.55 a.m. the workman came and submitted a representation before the E.O., the said representation was rejected by the E.O. The E.O. inquired from the workman whether he had to say any thing in defence, whereupon, the workman replied that he had nothing to say. After that the workman left the place without signing the proceedings of the date despite the fact that he was asked to sign the same by the EO Ext. W-23 is the copy of representation made by the workman on 20-11-73. He complained that he was not informed in advance about the date 5-11-73, fixed in the inquiry. The prayer made in the representation was for postponement of enquiry and not for being given an opportunity to cross examine the departmental witness.

23. It further appears that even when additional evidence was admitted by E.O., he informed about it to the workman and sent him the copy of the documents as will be evident from copy of memo dated 13-4-74 of the E.O., copy Ext. W-24.

24. Hence, I am unable to understand how it can be said that the inquiry was not conducted by the E.O. fully and properly and in accordance with the principles of natural justice. I have also gone through the findings recorded by the E.O. The findings given by him cannot be said as perverse. I may state here that Rules Strict Rules of Evidence do not apply to domestic proceedings. Moreover, this Tribunal is not to examine the findings of the E.O. as court of appeal. Principal Bareilly College, Bareilly, was cited as witness in the chargesheet but the workman objected to his being examined on the ground that he was an outsider.

25. Looking to the facts and over all circumstances specially the conduct of the workman during the

inquiry proceedings, the punishment awarded to the workman cannot be considered as harsh.

26. The result, therefore, is that the action of the management of I.V.R.I. Izatnagar, Bareilly, in dismissing the workman from service is held justified. The workman is entitled to no relief.

27. The reference is answered accordingly.

28. Let six copies of this award be sent to the Government for its publication.

ARJAN DEV, Presiding Officer
[No. L-42012/44/85-D.II(B)]

का. भा. 3087—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुवर्ण में, केन्द्रीय सरकार उत्तरी रेलवे प्रशासन, बीकानेर के प्रबन्धन में सम्बन्धित निरोधकों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, जयपुर के पंचाद को प्रकाशित करती है, जो केन्द्रीय सरकार को 26-9-88 को प्राप्त प्राप्त हुआ था।

S.O. 3097.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Jaipur, as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Northern Railway Administration, Bikaner and their workmen which was received by the Central Government on the 26th September, 1988.

केन्द्रीय औद्योगिक न्यायाधिकरण, जयपुर

केस ई. सी. आई. टी. 67/84

केन्द्रीय सरकार, धर्म मंत्रालय, नई दिल्ली की अधिसूचना संख्या एल 241012 (64)/83-डी.-II (बी) दिनांक 21-7-84 जनरल सेक्रेटरी, रेलवे केजुअल लेबर यूनियन, डागा स्कूल के पास बीकानेर यूनियन पक्ष, यणाम

1. रिजीजनल रेलवे मनेजर, नोर्दन रेलवे, बीकानेर
2. रिजीजनल इन्वीसिगर, नोर्दन रेलवे, बीकानेर

..... नियोजक पक्ष

उपस्थिति

यूनियन की ओर से : श्री भरत सिंह
नियोजक की ओर से : श्री एन. सी. मेहरा
दिनांक प्रकाशित : 20-5-88

प्रकाशित

भारत सरकार के धर्म तथा नियोजन विभाग नई दिल्ली द्वारा जारी आदेश संख्या एल. 41012 (64)/83-डी.-2 (बी) दिनांक 21 जुलाई 1984 निम्नलिखित विवाद अंतर्गत धारा 10(1) (बी) औद्योगिक विवाद अधिनियम 1947 जिसे लगावात अधिनियम निम्ना ज्ञापना, वास्ते अधिनिर्णय प्रस्तुत किया है :

"Whether the Railway Administration of Bikaner Div. Northern Railway is justified in terminating the services of Shri Ram Singh S/o Premraj Mall under the IOW Bikaner w.e.t. 11-6-73. If not to what relief is the workmen concerned entitled?"

प्राणी राम सिंह की ओर से निम्नलिखित स्टेटमेंट, आक क्लेम पेश किया गया है।

यह कि प्राणी ने दिनांक 7-4-70 से 16-6-73 तक केजुप्रल सेबर का कार्य उत्तर रेलवे बीकानेर मण्डल में किया और एक कलेक्टर वर्ष 240 दिन से अधिक काम करने के आधार पर लगातार काम करने वाला औद्योगिक कर्मकार हो गया। इसके बारे में अंग्रे व्यक्त किया कि प्राणी ने 7-4-70 से 30-9-70 तक एवं 1-4-71 से 3-9-71 तक केजुप्रल सेबर वाटरमैन का कार्य मण्डल कार्यालय उत्तर रेलवे बीकानेर में किया। दिनांक 19-2-72 को प्राणी को कंट्रोल बाल्व खलासी के कार्य पर मण्डल कार्यालय बीकानेर लगाया गया। दिनांक 11-6-73 को सिविल केश में प्राणी को जिला जज बीकानेर उपस्थित होने के लिए बुलाया गया जिसके लिए कार्य निरीक्षक नॉर्दन रेलवे बीकानेर के पत्र संख्या जी.सी./73 दिनांक 11-6-73 प्राणी को दिया। पत्र दिनांक 11-6-73 में प्राणी को यह भी लिखा गया कि प्राणी उपरोक्त न्यायालय से उपस्थिति प्रमाण पत्र पेश करे जो प्राणी को 17-10-73 को मिला जिसे प्राणी ने निरीक्षक बीकानेर कार्यालय में पेश किया। प्राणी की सेवा बिना किसी नोटिस किये सेवा समाप्त की गई। प्राणी को छंटनी का मुआवजा भी नहीं दिया गया। सेवा समाप्ति से पूर्व प्राणी जैसे कर्मचारियों की गरिष्ठता सूची भी घोषित नहीं की गई न ही भारत सरकार को इस छंटनी की कोई सूचना दी गई।

इस प्रकार स्टेटमेंट आक क्लेम में जाहिर किया कि प्राणी की सेवा समाप्ति औद्योगिक बिना अधिनियम की धारा 25 एफ. एवं 25-जी. के उल्लंघन में की गई है। अंत में प्राणी की कि प्राणी को 11-6-73 के बाद बतौर वसुंध श्रेणी कर्मचारी खलासी के पद पर सेवा वेतन सहित बहाल किया जाये और बीच की अवधि का वेतन दिलाया जाये

प्राणी रेलवे की ओर से प्राणी के क्लेम को इस प्रकार प्रतिवाद किया कि प्राणी की नियुक्ति स्वीकृत टी.एल.ए. पर सामयिक आन्तरिक रूप से प्राणी द्वारा दिनांक 12-6-73 से पूर्ववर्ति बारह मास में निरन्तर 240 दिन कार्य नहीं किया। प्राणी 25 एफ. और 25 जी. अधिनियम के प्रावधानों के तहत संरक्षण नहीं पा सकता। प्राणी को सेवा से टर्मिनेट नहीं किया था अपितु प्राणी दिनांक 12-6-73 से निरन्तर अनुपस्थित चल रहा था तथा 15-10-73 को टी.एल.ए. की अवधि समाप्त हो गई। अतः प्राणी का क्लेम खारिज किया जाये।

प्राणी रामसिंह ने स्वयं का शपथ पत्र पेश किया जिसे न्यायाधिकरण द्वारा सत्यापित किया गया। रेलवे के वकील ने प्राणी राम सिंह से तपरीक्षण किया। रेलवे की ओर से साधु चन्द पुत्र श्री जसराम ने अपनी शपथ पत्र पेश किया जिसे सत्यापित किया गया और प्राणी के अधिकृत प्रतिनिधि ने गवाह से प्रति परीक्षण किया। मैंने बहुत योग्य अधिकृत प्रतिनिधि प्राणी व अधिकृतता अप्राणी रेलवे सुनी है पञ्चावली का ध्यानपूर्वक अवलोकन किया है।

अब न्यायाधिकरण के समक्ष निम्न विवादास्पद बिन्दु काबिल गौर हैं:

1. आया प्राणी राम सिंह उसकी सेवा समाप्ति दिनांक 11-6-73 से पूर्व एक कलेक्टर वर्ष 240 दिन से अधिक दिन निरन्तर कार्य कर औद्योगिक कर्मकार हो गया था।
2. क्या प्राणी राम सिंह की सेवा समाप्ति धारा 25-एफ. एवं 25-जी के उल्लंघन में की गई है।
3. क्या प्राणी किस राहत को पाने का अधिकारी है।

अब पञ्चावली का अवलोकन और दोनों पक्षों की साक्ष्य पर गौर करना है। इस सम्बन्ध सर्वप्रथम प्राणी राम सिंह की साक्ष्य विचारणीय है। ए.डब्ल्यू. 1 राम सिंह ने अपने शपथ पत्र में व्यक्त किया कि दिनांक 7-4-70 से 11-6-73 तक उसने केजुप्रल सेबर का कार्य उत्तर रेलवे मण्डल में किया और एक कलेक्टर वर्ष 240 दिन से अधिक कार्य

करने के आधार पर लगातार कार्य करने वाला औद्योगिक कर्मकार हो गया। राम सिंह ने अपने शपथ पत्र में यह भी व्यक्त किया कि दिनांक 7-4-70 से 30-9-70 एवं 1-4-71 से 30-9-71 तक केजुप्रल सेबर वाटरमैन का कार्य मण्डल कार्यालय किया। तत्पश्चात् 19-2-72 को कंट्रोल बाल्व खलासी के कार्य पर मण्डल कार्यालय में और दिनांक 16-10-72 से कार्य निरीक्षक बीकानेर की रेख रेख में वेतनमान 70-85 के वेतन पर काम किया और उसे अस्थाई बेज कर्मचारी वसुंध श्रेणी का स्टेटस दिया गया। तत्पश्चात् कार्य निरीक्षक बीकानेर ने उसको पत्र संख्या जी.सी./73-दिनांक 11-6-73 से प्राणी की सिविल न्यायालय में उपस्थित होने के लिए दिया जिसमें यह भी अंकित किया कि प्राणी न्यायालय से उपस्थिति प्रमाण पत्र लेकर आए। प्राणी को न्यायालय से उपस्थिति प्रमाण पत्र मिलने पर 17-10-73 को पेश किया किन्तु कार्य निरीक्षक बीकानेर ने प्राणी को कहा कि उसकी सेवा दिनांक 11-6-73 बाद बीपहर ही समाप्त कर दी गई है।

इसके मधुमेकाबिल अप्राणी रेलवे की ओर से श्री साधु चन्द पुत्र श्री जसराम पेश हुए जिन्होंने व्यक्त किया कि प्राणी राम सिंह निर्माण निरीक्षक के अधीन में दिनांक 19-2-72 से अनियमित पद पर कार्य किया। आगे व्यक्त किया कि दिनांक 16-10-72 से 11-6-73 तक वेतनमान 7-1-85 के अस्थाई खलासी के पद पर कार्य किया और दिनांक 12-6-73 से 15-10-73 तक प्राणी अनुपस्थित रहा और वह भी कहा कि वह दिनांक 7-4-70 से 18-2-72 तक उनके मण्डल कार्यालय में कार्य पर नहीं रहा। आगे यह भी व्यक्त किया कि दिनांक 36-10-72 से प्राणी को 7-1-85 के वेतनमान में भुगतान किया गया जिसका टी.एल.ए. संख्या 476 डब्ल्यू/5/72-73/176 दिनांक 14-10-72 है। आगे यह भी व्यक्त किया कि प्राणी को वारंट संख्या 223 दिनांक 21-5-73 के द्वारा न्यायालय बुलाया गया उस पर आई.ओ.डब्ल्यू. बीकानेर ने उनके पत्र संख्या जी.सी./73 दिनांक 11-6-73 के माध्यम से कर्मचारी को सूचना दी कि प्राणी दिनांक 11-6-73 के बाद से अनुपस्थित चल रहा है और 17-10-73 को न्यायालय से आवेक लेकर आया। प्राणी जिस टी.एल.ए. पर कार्य कर रहा था वह टी.एल.ए. की 15-10-73 से अवधि समाप्त हो गई। आगे यह व्यक्त किया कि तत्कालीन निर्माण निरीक्षक उत्तर रेलवे बीकानेर द्वारा प्राणी को सेवा से टर्मिनेट नहीं किया अपितु प्राणी 12-6-73 से निरन्तर अनुपस्थित चल रहा था। तथा 15-10-73 से टी.एल.ए. की अवधि समाप्त हो गई।

उपरोक्त दोनों गवाहों की साक्ष्य से यह स्वीकृत सत्य बन गये कि अंतिम में प्राणी को दिनांक 16-10-72 से 7-1-85 के वेतनमान कार्य निरीक्षक के अधीन अस्थाई तौर पर वसुंध श्रेणी रखा गया। इसके पश्चात् प्राणी का यह कहना कि दिनांक 11-6-73 को उसकी सेवा समाप्त कर दी गई जबकि अप्राणी रेलवे की ओर से यह व्यक्त किया गया कि 12-6-73 से प्राणी निरन्तर अनुपस्थित रहा और दिनांक 15-10-73 को उस टी.एल.ए. की अवधि समाप्त हो गई जिसमें प्राणी कार्य कर रहा था। फिलहाल यह जाहिर है कि 12-6-73 को अप्राणी रेलवे की ओर से प्राणी की अनुपस्थिति दिखाई गई है। इस तारीख से एक साल पूर्व 12-6-72 से 12-6-73 तक की अवधि को गौर करना है। इस सम्बन्ध में प्राणी रेलवे के गवाह साधु चन्द निर्माण निरीक्षक ने उसके प्रति परीक्षण में यह माना और रिपोर्ट देकर यह स्वीकार किया कि 12-6-72 से 12-6-73 तक प्राणी राम सिंह ने 365 दिन कार्य किया। रेलवे एक उद्योग है। इसको किसी ने चुनौती नहीं दी। इस उद्योग में प्राणी ने अंतिम कार्य दिवस से 12 मास पूर्व 365 दिन कार्य किया जो अप्राणी का गवाह स्वयं मानता है। इससे यह अनुसूची प्रमाणित हो जाता है कि सेवा मुक्ति के अंतिम दिवस से पहले प्राणी एक कलेक्टर वर्ष में 240 दिन से अधिक निरन्तर कार्य करने वाला कर्मकार हो गया था। इसके प्रतिरुक्त भी प्राणी राम सिंह ने उसके शपथ पत्र में यह साफ तौर पर व्यक्त किया है कि दिनांक 1-4-70 से 30-9-70 तक एवं 1-4-71 से 30-9-71 तक प्राणी केजुप्रल

लेबर के रूप में वाटरमन का कार्य उत्तर रेलवे मण्डल कार्यालय में किया। तत्पश्चात् 19-2-72 से 16-10-72 तक प्रार्थी राम सिंह ने कन्ट्रोल वाल्व खलासी के रूप में मण्डल कार्यालय बीकानेर में कार्य किया और तत्पश्चात् 16-10-72 से 16-11-73 तक उसे अतुर्थ श्रेणी कर्मचारी, भ्रष्टाई रेलवे कर्मचारी अतुर्थ श्रेणी का स्टेटस दिया गया। इससे पूर्व में प्रार्थी के बयान से यह प्रमाणित हो चुका है कि प्रार्थी राम सिंह ने 7-4-70 से 30-9-70 तक केजुअल लेबर वाटरमन का कार्य रेलवे मण्डल कार्यालय में किया। 1-4-71 से 30-9-71 तक पुनः 181 दिन केजुअल लेबर वाटरमन का कार्य किया। उनके बयान से यह भी जाहिर होता है कि दिनांक 19-2-72 से 16-10-72 तक कन्ट्रोल वाल्व खलासी के पद पर कार्य 240 दिन किया। यद्यपि प्रार्थी के इस कथन की याचिका 7-4-70 से 30-9-70, 1-4-71 से 30-9-71, 19-2-72 से 16-10-72 के बीच कार्य उनके उपमण्डल में नहीं करना दिखाकर एक टाल-मटोल की बात लिखाई है। इसलिए प्रार्थी राम सिंह के बयान की तस्दीक इस बारे में नहीं है कि उसने 7-4-70 से 30-9-70 तक य 1-4-71 से 30-9-71 तक बतौर केजुअल लेबर वाटरमन से मण्डल कार्यालय में काम किया एवं 19-2-72 से 16-10-72 तक कन्ट्रोल वाल्व खलासी के पद पर मण्डल कार्यालय बीकानेर में कार्य किया। इस प्रकार सेवा समाप्ति की अंतिम अवधि से पूर्व भी प्रार्थी के द्वारा 170+183+240 दिन बतौर केजुअल लेबर के काम करना प्रमाणित होता है। नहरहास अप्रार्थी के गवाह श्री लाल चन्द पुत्र श्री जसाराम निर्माण निरीक्षक के प्रतिपरीक्षण से यह बखूबी प्रमाणित हो जाता है कि दिनांक 12-6-73 से एक वर्ष पूर्व के मध्य प्रार्थी राम सिंह ने रेलवे में 365 दिन लगातार कार्य कर वह औद्योगिक कर्मकार हो गया है।

इस प्रकार प्रश्न संख्या (1) का उत्तर सकारात्मक प्रार्थी के पक्ष में दिया जाता है। अब यह बखाना है कि प्राया प्रार्थी की सेवा समाप्ति छंटनी की परिभाषा में आती है या नहीं और क्या उसकी सेवा समाप्ति धारा 25 एफ. और 25 जी. के उल्लंघन में है या नहीं। इस सम्बन्ध में प्रार्थी से उसके स्टेटमन्ट आफ क्लेम के पैरा संख्या 7 में यह व्यक्त किया कि प्रार्थी को कार्य निरीक्षक बीकानेर ने मौखिक रूप से सूचित किया कि उसकी सेवा, दिनांक 11-6-73 के बाद दोपहर टर्मिनेट कर दी गयी है। अतः प्रार्थी 12-6-73 से रेलवे सेवा नहीं माना जा सकता। स्टेटमन्ट आफ क्लेम की सम्पुष्टी में राम सिंह ने उसके शपथ पत्र में यह व्यक्त किया है कि “कार्य निरीक्षक बीकानेर ने कहा कि उसकी सेवा दिनांक 11-6-73 की दोपहर बाद समाप्त कर दी गई है।” इस प्रकार प्रार्थी के बयान से उसके क्लेम में रखे गए तथ्य की सम्पुष्टी होती है कि प्रार्थी की सेवा समाप्ति 11-6-73 के दोपहर बाद कर दी गई है। इसके सुकायले अप्रार्थी रेलवे की ओर से यह तथ्य उनके जवाब में रखा गया है कि निर्माण निरीक्षक उत्तर रेलवे बीकानेर ने प्रार्थी की सेवा किसी रूप में टर्मिनेट नहीं की प्रार्थी दिनांक 12-6-73 से निरन्तर अनुपस्थित चल रहा है और 15-10-73 से टी.एल.ए. की अवधि समाप्त हो गई है। इस सम्बन्ध में अप्रार्थी रेलवे के गवाह लाल चन्द पुत्र जसाराम ने यह व्यक्त किया कि प्रार्थी राम सिंह दिनांक 11-6-73 के बाद से अनुपस्थित चल रहा है और कर्मचारी जिस टी.एल.ए. में काम कर रहा था वह टी.एल.ए. 15-10-73 से खत्म हो गया। यहाँ यह काबिल गौर है कि प्राया प्रार्थी का कथन उसकी सेवा मुक्ति किये जाने के बारे में विश्वसनीय है या नहीं। यहाँ यह व्यक्तिगत मर्तर है कि प्रार्थी दिनांक 11-6-73 से पहले यव 16-10-72 से लगातार कार्य कर रहा था और प्रार्थी राम सिंह को आई.ओ. डब्ल्यू. बीकानेर ने उसके पत्र संख्या, जो.सी. 73 दिनांक 11-6-73 के मध्यम से जिला जजी बीकानेर में उपस्थित होने की सूचना दी गई जिसमें यह भी लिखा गया कि प्रार्थी न्यायालय से उपस्थिति प्रमाण पत्र लेकर आए। प्रार्थी ने इस उपस्थिति प्रमाण पत्र 17-10-73 को पेश किया। इससे यह प्रमाणित हो जाता है कि प्रार्थी न्यायालय के वारंट संख्या 223 दिनांक 29-5-73 की परिपालना में आई.ओ. डब्ल्यू. बीकानेर के लिखे जाने पर उपस्थित हुआ और उसके पश्चात् 12-6-73 का उसे काम पर नहीं

लिया गया। यहाँ प्रार्थी का कथन अधिक विश्वसनीय प्रतीत होता है। जब टी.एल.ए. की अवधि 15-10-73 तक थी तो कोई कारण नहीं था कि प्रार्थी को न्यायालय से वापसी पर काम पर नहीं लिया जाता और अब प्रार्थी स्वयं आई.ओ. डब्ल्यू. के लिखे जाने पर न्यायालय में उपस्थित हुआ था तो उसके वहाँ हाजिर होने का उचित कारण था जो उसने अपने बयान के प्रति परीक्षण में स्पष्टतः व्यक्त किया है कि छुट्टी के लिए आई.ओ. डब्ल्यू. से उसने एंलाई किया था जो लिखित में दिया था जिसकी एक कापी पञ्जाबरी पर है। छुट्टी उसी समय मञ्जूर कर ली थी। प्रति परीक्षण में प्रार्थी ने इस सुझाव को गलत बताया कि वह 11-6-73 से बिना किसी सूचना के अनुपस्थित चल रहा था लगाया कि 11-6-73 के बाद उसने उसकी अनुपस्थिति को भी नकारा है। इसलिए अप्रार्थी के गवाह का यह कथन विश्वसनीय प्रतीत नहीं होता कि प्रार्थी राम सिंह 11-6-73 के बाद अनुपस्थित हो गया। फिर प्रार्थी ने 17-10-73 को न्यायालय का उपस्थिति प्रमाण पत्र भी लाकर दे दिया। उस सूरत में भी उसका नाम हटाया जाना अनुचित एवं अवध था। छंटनी के मामले में औद्योगिक अधिनियम के प्रावधान लागू होंगे न कि रेलवे क्लस। यह दोनों पक्ष की साक्ष्य की गौर करने से विश्वसनीय नहीं है कि प्रार्थी राम सिंह 11-6-73 के बाद स्वयं अनुपस्थित रहा हो। ऐसी सूरत में प्रार्थी की सेवा समाप्ति दिनांक 11-6-73 से एक छंटनी की परिभाषा में आती है। सेवा समाप्ति औद्योगिक कर्मकार कि किसी भी कारण से की गई है यहाँ यह छंटनी की परिभाषा में रहती है। प्रार्थी की साक्ष्य से यह निश्चित है कि प्रार्थी की सेवा समाप्ति का नोटिस नहीं दिया गया और नोटिस अवधि के बदले वेतन ही दिया गया। प्रार्थी की सेवा समाप्ति की गई उसको छंटनी का मुभावजा भी नहीं दिया गया न ही बरिष्ठता सूची ही प्रकाशित की गई। प्रार्थी की साक्ष्य से यह भी प्रमाणित होता है कि उसे 1-6-73 से 11-6-73 का वेतन भत्ता भी नहीं दिया गया। इस प्रकार धारा 25 एफ. और 25 जी दोनों की शर्तों के उल्लंघन में जो सेवा समाप्ति की गई वह छंटनी पाई गई है। इण्डियन फेडरटी एण्ड लेबर रिलेटेड बाल्यूम 42 1982 के पृष्ठ संख्या 113 पर पी प्रभाकरन एवं अन्य बनाम केराला रोड ट्रांसपोर्ट कारपोरेशन एण्ड अन्य में यहाँ विनिश्चित किया गया है कि जहाँ भ्रष्टाई कर्मचारी की नियुक्ति एक नियत समय के लिए की गई हो तथा उसकी सेवा समाप्ति छंटनी की परिभाषा में आती है और धारा 25 एफ और जी. के प्रावधानों में भी डिस्टिंग्गुअन इसी प्रकार किया गया है।

“Section 25C will get attracted to all cases of retrenchment and the procedure laid down therein insisting on the observance of the principle of last come first go will have to be strictly followed by the employer if the retrenchment is to be regarded as valid save in cases covered by the last portion of the section namely, where ‘for reasons to be recorded the employer retrenches any other workman’.”

Accordingly, we hold that the provisions of section 25C are applicable in respect of temporary employees like the petitioners who were appointed by the Kerala State Road Transport Corporation at reserved Conductors on purely temporary basis.

उक्त रूलिंग के आधार पर यह स्पष्ट है कि धारा 25 जी. अधिनियम छंटनी के उन सभी केसज पर लागू हो जाएगा और इस धारा के अंतर्गत यह सर्वमान्य सिद्धांत प्राधिर में आए पहले जाए कठोरता से लागू किया जाएगा। इस प्रकार जबकि प्रार्थी की सेवा समाप्ति की गई और बरिष्ठता सूची तयार नहीं की गई। ऐसी सूरत में इण्डियन डिस्पूट सेट्टल क्लस के रूल 77 की अवहेलना हो जाती है और धारा 2 (जी) (2) संगठित औद्योगिक विवाद अधिनियम 88 के क्लस से प्रार्थी राम सिंह का छंटनी अवधि पायी जाती है जबकि प्रार्थी कर्मकार ने उसकी सेवा समाप्ति से पूर्व एक कलेक्टर बर्य में 240 दिन कार्य किया और इसकी सेवा समाप्ति से पूर्व उसको एक माह का नोटिस या नोटिस अवधि भी नहीं दी गई, न ही छंटनी का मुभावजा दिया गया, न ही केन्द्रीय सरकार रेलवे मंत्रालय के ऐसी कोई सूचना भी भेजी गई उस सूरत में प्रार्थी की छंटनी अवधि पाई जाती है और प्रार्थी के क्लेम में

धारा 25-एफ. ब 25 जी. का उल्लंघन होने से उसकी अवैध छंटनी पाई गई।

अनुतोष प्रार्थी की छंटनी अवैध पाई जाने के कारण प्रार्थी उसकी सेवा समाप्ति से पूर्व पद एवं वेतन पर बहाल होने का अधिकारी पाया जाता है। तथा उपरोक्त विवेचन के आधार पर प्रार्थी के हक में निम्न अवार्ड पारित किया जाता है।

यह कि उत्तर रेलवे प्रशासन बीकानेर मण्डल के द्वारा श्री राम सिंह पुत्र श्री प्रेम राज माली जे आई.ओ. डब्ल्यू. बीकानेर के तहत कार्य कर रहा था की सेवा समाप्ति दिनांक 11-6-73 से किया जाना अवैध पाया जाता है। प्रार्थी उसकी सेवा समाप्ति की दिनांक 11-6-73 के मध्याह्न पश्चात से उसके पूर्ववत् पद से सेवा समाप्ति के पूर्व के वेतन पर बहाल किये जाने का अधिकारी पाया जाता है तथा प्रार्थी सेवा मुक्ति के बाद यानि 12-6-73 से सेवा में बहाल किया जाने की दिनांक तक नियमानुसार वेतन प्राप्त करेगा और उसके प्रतिरिक्त इस अवधि में जो अन्य वेत लाभ उत्पन्न हुए वह उन्हें भी पाने का अधिकारी है। 1-6-73 से 11-6-73 तक का बकाया वेतन भी वह प्राप्त करेगा। अवार्ड बास्ते प्रकाशनार्थ केन्द्रीय सरकार को धारा 17(3) के अंतर्गत भेजा जाए।

[सं. एल.-41012/64/83-डी-2 (बी)]

प्रताप सिंह यादव, न्यायाधीश

का.प्रा. 3098—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार उत्तरी रेलवे बीकानेर के प्रबन्धतंत्र से सम्बद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निहित औद्योगिक विवाद में औद्योगिक अधिकरण, जयपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 26-9-88 को प्राप्त हुआ था।

S.O. 3098.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Jaipur, as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Northern Railway, Bikaner and their workmen, which was received by the Central Government on the 26th September, 1988.

केन्द्रीय औद्योगिक न्यायाधिकरण, जयपुर

केस नं. सी.आई.टी. 53/4/84

केन्द्र सरकार अथ मंत्रालय की अधिसूचना संख्या: एल 41011(25)/83 डी-II(बी) दिनांक 13-6-84

रेलवे कैंजल यूनियन कर्मकार महावीर पुत्र तेजा, बीकानेर।

—यूनियन

बनाय

महाप्रबन्धक, उत्तर रेलवे मुख्यालय, बड़ोदा हाउस, दिल्ली।

—नियोजक

उपस्थिति

माननीय न्यायाधीश श्री प्रताप सिंह यादव, भार. एच. जे. एस
यूनियन की ओर से : श्री भरत सिंह सेंगर
नियोजक की ओर से : श्री लाल चंद मेहरा
दिनांक अवार्ड 31-5-88

अवार्ड

केन्द्र सरकार के निम्न विवाद इन न्यायाधिकरण की बास्ते प्रवि-
र्णय हेतु अपनी अधिसूचना सं. एल-41011(25)/83 डी-II की
दिनांक 13-6-84 के द्वारा औद्योगिक विवाद अधिनियम, 1947 की
धारा 10(1) के अंतर्गत प्रेषित किया है:

“Whether the termination of services of Shri Hari Singh S/o Shri Mathisingh, Shri Rajendra S/o Shri Lakhn Gangotri, Shri Gulam Rezul S/o Shri Sadekhan, Shri Mahaveer, S/o Shri Teja and Shri Arjun S/o Shri Jawara casual workers working under the DPO Northern Railway Bikaner is justified? If not to what relief are the concerned workmen entitled?”

2. प्रार्थी यूनियन की ओर से श्री भरत सिंह उपस्थित हैं। प्रार्थी रेलवे की ओर से श्री लाल चंद अधिवक्ता उपस्थित हैं। प्रार्थी यूनियन की ओर से महावीर प्रार्थी बाबत कोई शहादत पेश नहीं की न महावीर खुद उपस्थित नहीं आया प्रार्थी महावीर की शहादत पेश करने के लिए प्रार्थी यूनियन को महावीर के संबंध में शहादत पेश करने के लिए बार बार अवसर दिया गया फिर भी शहादत हाजिर नहीं की गई है। इसलिए प्रार्थी यूनियन की शहादत बाबत महावीर बंद की जाती है। श्री मेहरा अधिवक्ता ने भी रेलवे की ओर से शहादत पेश नहीं करनी चाही है और शहादत बंद की। पञ्चावली पर गौर किया गया प्रार्थी महावीर की सेवा समाप्ति अवैध रूप से की है इस बारे में कोई शहादत नहीं आई है और न ही स्टेटमेंट आफ क्लेम की संतुष्टि में कोई शहादत पेश नहीं की गई है अतः स्टेटमेंट आफ क्लेम में प्रार्थी महावीर के संबंध में रखे गये तथ्य से सेवा समाप्ति के प्रमाणित नहीं है। प्रार्थी महावीर कोई अनुतोष पाने का अधिकारी नहीं है। शहादत के प्रभाव में प्रार्थी का क्लेम याबत सेवा समाप्ति खारिज किया जाता है और इस रिकॉर्स के संबंध में नो डिस्ट्रूट अवार्ड पास किया जाता है। इस रिकॉर्स में उल्लेखित अन्य कर्मकारों की सेवा समाप्ति के संबंध में महावीर का क्लेम खारिज करने का कोई प्रभाव नहीं होगा। अवार्ड की प्रति प्रकाशनार्थ केन्द्र सरकार को अंतर्गत धारा 17(1) औद्योगिक विवाद अधिनियम 1947 के तहत भेजा जावे।

[सं. एल-41011/25/83-डी II(बी)]

प्रताप सिंह यादव, न्यायाधीश

का.प्रा. 3098—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डिभिजनल इंजीनियर टेलीग्राफ, भीलवाड़ा के प्रबन्धतंत्र से सम्बद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निहित औद्योगिक विवाद में औद्योगिक अधिकरण, जयपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 26-9-88 को प्राप्त हुआ था।

S.O. 3099.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Jaipur, as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Divisional Engineer Telegraph, Bhilwara and their workmen, which was received by the Central Government on the 26th September, 1988.

केन्द्रीय औद्योगिक न्यायाधिकरण, जयपुर

केस नं. सी.आई.टी. 2/85

रिकॉर्स : भारत सरकार, अथ मंत्रालय, नई दिल्ली की धारा कमांक
एल-40012(21)/83-डी II (बी) दिनांक 26-12-84
श्री अब्दुल रहीम पुत्र श्री मुहम्मद हुसैन, पंचमुखी के पास बाबावाड़ी
—प्रार्थी

वनाम
डिवीजनल इंजीनियर, टेलीग्राफ, भीलवाड़ा
—अप्रार्थी

उपस्थिति

श्री प्रताप सिंह यादव, मार. एच. जे. एस.

उपस्थिति

श्री सुरेश कश्यप
श्री एस. एल. सबनानी
दिनांक अग्रार्थ : प्राथी अधिक की ओर से
अग्रार्थी की ओर से
10-8-88

अग्रार्थ

भारत सरकार के डीस्क ऑफीसर के जरिए उपरोक्त आशा निम्न बिम्ब के अंतर्गत धारा 10 (1) (घ) सहपठित उपधारा 2(ए) औद्योगिक विवाद अधिनियम, 1947, वास्ते अधिनियम इस न्यायाधिकरण को भेजा है।

"Whether the action of the Divisional Engineer, Telegraphs, Bhilwara in terminating the services of Shri Abdul Rashid, Casual labor S/o. Shri Mohd Hussain Seikh w.e.f. 1-2-83 is legal and justified? If not to what relief is Shri Abdul Rashid entitled to?"

2. बाप प्राप्ति निर्देशन इस न्यायाधिकरण में निर्देशन को पंजीकृत किया गया एवं पक्षकारों को जरिए पंजीकृत आक नोटिस भेजे गए। बाद प्राप्ति नोटिस प्राप्ति श्री अब्दुल रशीद ने अपना स्टेटमेंट आक क्लेम पेश किया जो इस प्रकार है। यह कि प्राथी कर्मकार 11-8-81 को बतौर बायरमैन टेलीग्राफ सेंटर, डिवीजनल इंजीनियर टेलीग्राफ, भीलवाड़ा के अधीन एम्प्लायमेंट एक्सचेंज के माध्यम से नियुक्त किया गया था। दिनांक 1-2-83 को एक स्वच्छ सेवा रिकार्ड सहित वह कार्य कर रहा था जबकि उसे विना कारण सेवा मुक्त कर दिया गया। प्राथी को अन्य 12 कैजुअल कर्मकारों के साथ बिपक्षी द्वारा सेवा समाप्त करा दी गई। तत्पश्चात उसे दुबारा सेवा में नहीं लिया गया। विवाद समक्षोक्त अधिकाारी के समक्ष उठाया गया किन्तु वहां से असफल शर्मा रिपोर्ट आने पर। केन्द्र सरकार ने यह मामला इस न्यायाधिकरण को भेजा है। अंत में प्रार्थना की कि प्राथी पूरे वेतन सहित सेवा में बहाल किया जावे।

3. अप्रार्थी उप मंडल अधिकारी (शूरभाष) भीलवाड़ा ने उत्तर क्लेम निम्न प्रकार से पेश किया। यह कि ये तथ्य गलत हैं कि प्राथी की नियुक्ति बायरमैन के पद पर की गई। वास्तव में उसे बतौर कैजुअल लेबर के लगाया गया था। यह भी कहा कि प्राथी कर्मकार की परिभाषा में नहीं आता है, इसे भी नकारा कि प्राथी 1-2-83 का उक्त पद पर कार्यरत हो। यह भी स्वीकार किया कि अप्रार्थी ने उसे काम से हटा दिया बल्कि वास्तविकता यह है कि प्राथी को केबिल पार्टी में कार्य करने के लिए लगाया गया परन्तु वह काम पर नहीं गया। अन्य 12 कैजुअल लेबर का जो वर्णन किया गया है उनका मामला इससे भिन्न है। इस संबंध में यह भी व्यक्त किया कि उस समय जो कि श्रमिक मास्टर रोल पर बतौर कैजुअल लेबर कार्य कर रहे थे उनका मास्टर रोल बंद करके उन्हें केबिल पार्टी में कार्य करने के लिए निर्देश दिये गये थे। प्राथी के अलावा अन्य सभी 12 लेबर केबिल पार्टी में कार्य करने लग गये परन्तु प्राथी श्रमिक नहीं गया। इस तथ्य को भी नकारा कि प्राथी दिनांक 17-2-83 को डी. ई. टी., भीलवाड़ा से मिला हो बल्कि यह कहा कि वह जिलाधीश भीलवाड़ा से मिला था, उन्होंने डी. ई. टी. को उसका प्रार्थना पत्र भेजा था। जिस पर डी. ई. टी., भीलवाड़ा ने उप-मंडल अधिकारी, भीलवाड़ा को प्राथी श्रमिक को काम देने बाबत निर्देश दिये थे। इस निर्देश का अनुपालन में उप-मंडल अधिकारी, भीलवाड़ा ने लाइन निरीक्षक, पोटला में काम लेने हेतु प्राथी श्रमिक को निर्देश दिये, जिस आदेश की प्रति प्राथी श्रमिक

को दी गई थी परन्तु वह पोटला में भी काम पर नहीं गया। इस प्रकार प्राथी ने स्वेच्छा से काम छोड़ दिया। विशेष विवरण में कहा कि टेलीग्राफ विभाग में कोई भी कैजुअल लेबर वर्कमैन की परिभाषा में नहीं आता है। यह भी कहा कि टेलीग्राफ विभाग एक उद्योग नहीं है। अतः प्रार्थना को कि प्राथी का क्लेम मय सर्वे खारिज किया जाये।

4. जवाब पेश होने के पश्चात दिनांक 11-9-87 को प्राथी की ओर से कोई उपस्थित नहीं आया। उसके बाद आगामी तारीख पेशी 3-11-87 को प्राथी कर्मकार स्वयं उपस्थित आया और वस्तावेज पेश करने के लिए समय दिया गया। आगामी तारीख पेशी पर पुनः प्राथी को प्रवेश करने के लिए अवसर दिया गया। तत्पश्चात 25-1-88 को फिर प्राथी को प्रवेश पेश करने का अवसर दिया गया। मगर उसके पश्चात दिनांक 15-3-88 को प्राथी की ओर से कोई उपस्थित नहीं आया और पुनः वस्तावेज पेश करने का अवसर दिया गया। तत्पश्चात यह प्रकरण वास्ते पेश करने प्रलेख साक्ष्य के लिए नियुक्त किया गया मगर आगामी तारीख पेशी 26-7-88 को प्राथी की ओर से न तो कोई प्रलेख पेश किये गए न ही कोई साक्ष्य पेश की गई और 30 रुपये हर्जाने पर साक्ष्य पेश करने के लिए अवसर दिया गया; मगर आज दिनांक 10-8-88 को पुनः प्राथी की ओर से कोई साक्ष्य पेश नहीं की गई न ही वस्तावेज पेश किए गए। अप्रार्थी की ओर से लिखित में यह उल्लेख दिया गया कि प्राथी को 23-3-87 को काम पर लिया जा चुका था और प्राथी की ओर से ओडिशिन रिपोर्ट पेश की गई जो रिकार्ड पर ली गई। मगर आज न तो प्राथी की ओर से कोई साक्ष्य पेश की गई न ही कोई प्रलेख पेश किया गया। प्राथी की ओर से उनके अधिकृत प्रतिनिधि द्वारा साक्ष्य समाप्त की गई और इस पर नियोजक पक्ष के अधिकारता ने भी अपनी साक्ष्य समाप्त की।

5. मीजूबा प्रकरण में विवाद इस संबंध में है कि आया मंडल अभियंता टेलीग्राफ, भीलवाड़ा का यह कृत्य कि प्राथी श्री अब्दुल रशीद की सेवा दिनांक 1-2-83 से समाप्त करना अवैध एवं न्यायायसंगत या ना नहीं। चूंकि इस संबंध में प्राथी श्री अब्दुल रशीद को यह प्रमाणित करना था कि उसकी सेवा 1-2-83 से अवैध रूप से समाप्त की गई। मगर इस संबंध में प्राथी की ओर से न तो कोई प्रलेख ही पेश किया गया है और न ही कोई साक्ष्य पेश की गई जिससे यह सिद्ध हो सके कि प्राथी की सेवा मुक्ति अवैध थी। केवल लिखित में तो अप्रार्थी की ओर से प्रलेख पेश किया गया है वह इस आशय का है कि प्राथी दिनांक 23-9-87 से काम पर ले लिया जा चुका है और उसने उसी तारीख की ओडिशिन रिपोर्ट भी पेश की है। अब चूंकि इस संबंध में कि प्राथी की सेवा मुक्ति अवैध थी, कोई साक्ष्य नहीं है न कोई प्रलेख है तो उसके 23-3-87 से पूर्व की अवधि के संबंध में कुछ नहीं लिखा जा सकता कि आया इस दौरान का उसे कोई वेतन दिया जाये या नहीं। सिर्फ 23-3-87 की ओडिशिन रिपोर्ट से यहाँ प्रमाणित होता है कि प्राथी का अब्दुल रशीद पुनः सेवा में नियोजित है और व अप्रार्थी के यहाँ कार्य कर रहा है।

6. इस प्रकार प्राथी की ओर से साक्ष्य के अभाव में व किसी प्रमाण के अभाव में यह निष्कर्ष निकलता है कि अब प्राथी का कोई विवाद बाप नहीं रहा है। अतः इस मामले में नो डिस्प्यूट पारित किया जाता है।

7. अग्रार्थ की प्रति भारत सरकार को वास्ते प्रकाशन अन्तर्गत धारा 17(1) अधिनियम भेजी जाये।

प्रताप सिंह यादव, पीठासीन अधिकारी
[सं. एल. 40012/21/83-डी. II (बी)]

का. भा. 3100--औद्योगिक विवाद अधिनियम, 1947 (1047 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार उत्तरी रेलवे बीकानेर के प्रबंधन से सम्बद्ध नियोजकों और उनके कर्मचारियों के बीच,

प्रमुख में निर्दिष्ट औद्योगिक विवाद में औद्योगिक प्रतिकारण, जयपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 26-9-88 को प्राप्त हुआ था।

S.O. 3100.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Jaipur, as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Northern Railway, Bikaner and their workmen, which was received by the Central Government on the 26th September, 1988.

केन्द्रीय औद्योगिक न्यायाधिकरण, जयपुर

केस नं. सी. आई. टी. 25/85

रैफरन्स : भारत सरकार, श्रम मंत्रालय, नई दिल्ली को आता दिनांक 20-4-85।

श्री राम सिंह द्वारा रेलवे कैंजुअल लेबर यूनियन, बीकानेर

—प्राथी

बनाम

- (1) मंडल कार्मिक अधिकारी, नोर्दन रेलवे, बीकानेर।
- (2) डिवीजनल इंजीनियर, नोर्दन रेलवे, बीकानेर।
- (3) सहायक अभियन्ता, नोर्दन रेलवे, बीकानेर।
- (4) रेलपथ निरीक्षक, नोर्दन रेलवे, बीकानेर।

अप्रार्थी

उपस्थिति

श्री प्रताप सिंह यादव, आर. एच. जे. एम.

प्राथी यूनियन की ओर से : श्री भरत सिंह रॉय

अप्रार्थी रेलवे की ओर से : श्री सी. पी. सिंह

दिनांक अग्रेड : 21-7-88

अग्रेड

भारत सरकार, श्रम मंत्रालय, नई दिल्ली के डैस्क ऑफिसर ने निम्न विवाद इस न्यायाधिकरण को वास्ते अधिनियमित अपनी आज्ञा दिनांक एल. 41012(27) 84-डी. II (बी) दिनांक 20-4-84 द्वारा अनर्गल धारा 10 (1) (घ) औद्योगिक विवाद अधिनियम 1947, विनियमन अधिनियम लिखा जायेगा, प्रेषित किया है:-

"Whether the action of the Assistant Engineer Northern Railway, Bikaner in terminating the services of Shri Ram Singh, son of Shri Bhulan with effect from 15-7-78 is justified? If not to what relief is the concerned workman entitled?"

2. इस निर्देशन को पंजीकृत किया जाकर संबंधित पक्षकारान् को नोटिस जारी किए गए। श्री भरत सिंह रॉय, महामंत्री रेलवे कैंजुअल लेबर यूनियन, बीकानेर ने स्टेटमेंट ऑफ क्लेम निम्न प्रकार से प्रस्तुत किया। यह कि कर्मचारी श्री राम सिंह दिनांक 10-1-76 को स्थाई पथ निरीक्षक, उत्तर रेलवे, बीकानेर की देख रेख में दैनिक वेतन पर नियुक्त हुए थे। दिनांक 1-8-77 से उसे खलासी के पद पर लगा दिया गया एवं इस कर्मचारी को दिनांक 14-7-78 तक नियुक्त रखा गया। तत्पश्चात् यह कर्मचारी एक कैलेण्डर वर्ष में 240 दिन से अधिक काम करने के आधार पर लगातार काम करने वाला औद्योगिक कर्मकार हो गया। स्थाई पथ निरीक्षक, उत्तर रेलवे, बीकानेर ने श्री राम सिंह को सेवा दिनांक 15-7-78 से मौखिक रूप से समाप्त कर दी और यह बताया कि इस कर्मचारी की सेवा सहायक अभियन्ता उत्तर रेलवे, बीकानेर ने समाप्त करने के लिए कहा। इस कारण से उसे सेवा निवृत्त किया गया।

यह कर्मचारी अनुचित व अवैध होने के कारण छुट्टी के तौर पर की जाना लिखा गया। आगे यह व्यक्त किया कि प्राथी कर्मचारी को एक माह की सेवा समाप्ति का नोक्सि नहीं दिया गया, न नोटिस पे और न ही छुट्टी का सुझाव ही दिया गया तथा छुट्टी के बावत उसे कोई सुचना भी नहीं दी गई। प्राथी राम सिंह जैसे कर्मचारियों को वरिष्ठता सूची भी नहीं निकाली गई। पहले आगे पीछे जाये के सिद्धान्त का पालन नहीं किया गया। आगे व्यक्त किया कि कर्मचारी ने उसका औद्योगिक विवाद उपरोक्त यूनियन के माध्यम से जिसका कि वह सदस्य है, चलाया, जिसमें असफल बातों के आधार पर यह निर्देशन इस न्यायाधिकरण को प्रेषित किया गया। अंत में प्रार्थना की कि प्राथी को दिनांक 15-7-78 के पश्चात् खलासी के पद पर रेलवे सेवा में पुनः बहाल किया जावे व नियमानुसार पूरा भत्ता देने का भी अग्रेड पारित किया जावे।

3. मण्डल कार्मिक अधिकारी ने अप्रार्थीगण की ओर से उत्तर क्लेम निम्न प्रकार से प्रस्तुत किया। यह स्वीकार किया कि प्राथी श्री राम सिंह को दिनांक 10-1-76 को स्थाई वर्ष निरीक्षक उत्तर रेलवे, बीकानेर ने दैनिक वेतन पर लगाया था। प्राथी ने दिनांक 8-7-77 तक कार्य किया इसे नकारा कि प्राथी ने एक कैलेण्डर वर्ष में 240 दिन से अधिक कार्य किया। इस तथ्य को भी नकारा कि प्राथी की सेवाएं दिनांक 15-7-78 को मौखिक रूप से समाप्त की गई हो और सहायक अभियन्ता, उत्तर रेलवे, बीकानेर द्वारा प्राथी की सेवा टर्मिनेट करने बावत कभी नहीं कहा गया न ऐसी कोई स्थिति उत्पन्न हुई, न ही उसकी सेवा समाप्त करना अनुचित एवं अवैध था। सेवा समाप्ति का नोटिस देने की भी आवश्यकता नहीं थी और जब प्राथी की सेवा टर्मिनेट नहीं की गई तो उसे छुट्टी का सुझाव देने का प्रश्न ही नहीं उठता था। आगे इस चीज को भी नकारा कि रेलवे की ओर से पहले आगे पीछे जाये के सिद्धान्त का उल्लंघन किया गया हो। अप्रार्थी कोई अनुतोष पाने का अधिकारी नहीं है।

4. अतिरिक्त आपत्तियां में यह व्यक्त किया कि रेलवे कार्य सूचार्क रूप से चलाने के लिए समय-समय पर टी. एल. ए. स्वीकृत किए जाते हैं और उनके अनुसार संबंधित कर्मचारी कैंजुअल लेबर के तौर पर जो प्राथी उस समय उपलब्ध हो जाता है उसको लगा दिया जाता है। कभी भी जिसाफ अधिकारी कर्मचारी को नहीं लगाता। कर्मचारी को टी. एल. ए. में लगाते समय साफ-साफ बता दिया जाता है कि उतको कितने समय के लिए लगाया गया है। उस टी. एल. ए. की समाप्ति पर उस कैंजुअल लेबर की सेवाएं स्वतः ही समाप्त हो जायेगी। प्राथी को पहले स्थाई पथ निरीक्षक द्वारा उसके पास स्वीकृत टी. एल. ए. में नियत अवधि के लिए लगाया गया था जिसने उसके पास 8-7-77 तक कार्य किया था। तत्पश्चात् प्राथी ने आई. ए. डब्ल्यू. बीकानेर के यहाँ समय-समय पर अलग अलग नियत टी. एल. ए. में कार्य किया और उसके दिनांक 13-7-77 से 14-7-78 तक कार्य और कैंजुअल लेबर के तौर पर कार्य किया। दिनांक 14-7-78 तक जो कार्य किया उस टी. एल. ए. का समय दिनांक 14-7-78 तक ही था जिस टी. एल. ए. में लगाते समय उसे बता दिया गया था कि टी. एल. ए. का समय 24-7-78 तक ही है और इसकी अवधि समाप्त हो जाने के साथ-2 प्राथी की सेवाएं भी समाप्त हो जायेगी। जब प्राथी को वह माबूस था कि जिस टी. एल. ए. का समय 14-7-78 तक का हो है उस को चाहिये था कि वह अपने दिन आकर दूतटी. एल. ए. में लगाता था आफिज में उपस्थित होता ताकि उसे दूसरे टी. एल. ए. में लगाया जाता, परन्तु उसने ऐसा नहीं किया और अतिरिक्त रूप से व तैर हाजिर हो गया। आता टी. एल. ए. जो शुरू हो रहा था उसके बारे में नोटिस बोर्ड पर सूचना भी लगा दी थी परन्तु वह वापिस नहीं आया। अतः प्रार्थना की कि प्राथी का क्लेम अस्वीकार किया जावे और रैफरन्स में जो डिस्ट्रिक्ट अग्रेड पारित किया जावे।

5. प्राणी श्री राम सिंह ने अपने क्लेम की संपुष्टि में स्वयं का शपथ पत्र पेश किया है जिसे इस न्यायाधिकरण द्वारा स्वीकृत किया गया। उत्तर रेलवे के बकील ने गवाह से जिरह की। रेलवे की ओर से श्री सांवरनाथ कच्छावा आई. प्रो. डब्ल्यू. उत्तर रेलवे, बीकानेर का शपथ पत्र प्रस्तुत किया गया है जिसे इस न्यायाधिकरण ने स्वीकृत किया। श्री राम सिंह के अधिकृत प्रतिनिधि ने श्री सांवरनाथ से जिरह की और इस प्रकार अप्राणी को साक्ष्य समाप्त हुई।

6. मैंने बहुत योग्य अधिकृत प्रतिनिधि प्राणी एवं योग्य अधिवक्ता अप्राणी मनी है। पक्षावली का स्वातंत्र्यक अवलोकन किया है।

7. शपथ पत्रकारान् की बहुत के पश्चात् निम्न विचारणीय निर्णयक विष्णु कायम किए जाते हैं।

1. आया प्राणी श्री राम सिंह दैनिक बेतन भोगी कर्मचारी क्या एक वर्ष में 240 दिन से अधिक कार्य कर निरन्तर कार्य करते वाला औद्योगिक कर्मचारी बन गया था।

2. प्राणी की सेवा समाप्ति दिनांक 15-7-78 को की गई वह छंटनी की परिभाषा में आती है, अगर यदि हां तो क्या सेवा समाप्ति अनुचित एवं अवैध थी।

3. अनुलोप।

8. विष्णु नं. 1 :

प्रथम विचारणीय विष्णु प्राणी श्री रामसिंह के एक कैलेंडर वर्ष में 240 दिन से अधिक निरन्तर कार्य करने वाला औद्योगिक कर्मचारी होने के संबंध में है। इस बारे में कार्य प्राणी ने उसके शपथ पत्र में यह ब्यक्त किया है कि 10-1-76 को स्टाई निरीक्षक उत्तर रेलवे बीकानेर में दैनिक बेतन दर पर नियुक्त किया था। तत्पश्चात् 1-8-77 से उसे खजामी के पद पर लगाया गया जहां उसे 14-7-78 तक नियुक्त रखा गया और उसे 196-232 "क" का वेतनमान दिया गया। प्राणी प्राणी ने यह ब्यक्त किया कि एक कैलेंडर वर्ष में 240 दिन से अधिक काम करने के आधार पर वह लगातार काम करने वाला औद्योगिक कर्मचारी हो गया था, इस संबंध में अप्राणी मण्डल कामिक अधिकारी उत्तर रेलवे बीकानेर ने उनके स्टेटमेंट ऑफ क्लेम के उत्तर में यह स्वीकार किया कि प्राणी को 10-1-77 को स्टाई पत्र पर निरीक्षक उत्तर रेलवे बीकानेर ने दैनिक बेतन पर लगाया यह भी माना कि उसे 8-7-77 तक रेलवे पथ निरीक्षक के यहाँ कार्य किया। यद्यपि इस तथ्य को नकारा कि उस ने एक कैलेंडर वर्ष में 240 दिन से अधिक कार्य किया मगर श्री सांवरनाथ ने उसकी जिरह में यह स्वीकार किया कि प्राणी ने 14-7-77 से 14-7-78 तक प्र. एम.-1 के अनुसार 353 दिन कार्य किया और यह भी माना कि सेवा समाप्ति आदेश भोके पर प्राणी को आई.आ. डब्ल्यू. ने दिये थे। प्र. एम.-1 से यह धिक्क है कि 10-1-76 से 24-7-77 तक प्राणी ने 440 दिन कार्य किया था और उसके पश्चात् 1-8-77 से 14-8-77 तक प्राणी 372 दिन और कार्य करना दिखाया। प्र. एम.-1 और श्री सांवरनाथ की स्वीकारोक्ति से यह प्रमाणित है कि प्राणी श्री राम सिंह ने 14-7-77 से 14-8-78 तक 353 दिन कार्य किया। यदि इसमें से 31 दिन घटा भी दिये जायें तो भी 15-7-78 से पीछे एक वर्ष की अवधि में प्राणी के द्वारा 240 दिन से अधिक निरन्तर कार्य करना बखूबी प्रमाणित होता है। यह निर्विरोध है कि रेलवे उद्योग की परिभाषा में आता है और जिस प्रकार का कार्य प्राणी से लिया गया उनको करते हुए प्राणी एक औद्योगिक कर्मकार की श्रेणी में आता है। इस प्रकार प्राणी श्री राम सिंह की साक्ष्य प्र. एम. 1 ओब कार्ड के साथ लगे दिवसों का ब्योरा एक अप्राणी के गवाह सांवरनाथ के प्रति परीक्षण से बखूबी प्रमाणित हो जाता है कि प्राणी एक कैलेंडर वर्ष में 240 दिन से अधिक कार्य कर निरन्तर कार्य करने वाला औद्योगिक कर्मकार सेवा समाप्ति से पूर्व हो गया था और उसे उस समय 196-232 का वेतनमान दिया जा रहा था।

9. विष्णु नं. 2 :

दूसरा विचारणीय प्रश्न प्राणी की सेवा समाप्ति दिनांक छंटनी की परिभाषा में प्राणी के या नहीं इसके संबंध में है। इस बारे में प्राणी अपेक्षित प्रतिनिधि प्राणी ने बयान की है कि प्राणी को माध्य से यह स्पष्टक प्रमाणित है कि उसकी सेवा समाप्ति से पूर्व उसे एक माह का नोटिस नहीं दिया गया, नोटिस के बदले एक माह का वेतन एवं छंटनी का मुआवजा भी नहीं दिया गया। प्राणी ने कर्मचारियों की वरिष्ठता सूची भी नहीं निकाली गई, न ही पहले प्राणी पीछे जाये के मिनास्त की अनुपालना की गई। यह भी बयान की कि भारत सरकार को निर्धारित फार्म पर छंटनी बाबत कोई सूचना भी नहीं दी गई। इन सब कारणों से प्राणी की सेवा सुचित एक अवैध छंटनी को परिभाषा में आती है। अप्राणी की ओर से यह बयान की गई कि प्राणी एक स्वीकृत टी.एल.ए. के तहत लगाया गया था और समय समय पर टी.एल.ए. स्वीकृत होने के कारण इसकी सेवा अवधि बढ़ाई जाती रही। टी.एल.ए. एक निश्चित समय के लिए स्वीकृत होता था जिसकी जानकारी का सेवा में लगते समय दे दी जाती थी और टी.एल.ए. की समाप्ति पर प्राणी की सेवा स्वतः ही समाप्त हो जाती थी। इस प्रकार निश्चित समय के लिए टी.एल.ए. के तहत प्राणी को लगाया जाता है और उसकी सेवा अवधि एक निश्चित समय के लिए होती थी और इस निश्चित समय की समाप्ति पर उसकी सेवा खत्म हो जाती है जो कि छंटनी की परिभाषा में नहीं आती है। प्राणी कोई अनुलोप पाने का अधिकारी नहीं है।

10. दखता यह है कि आया प्राणी एवं अप्राणी के साथ सेवा संबंधी निश्चित अवधि के लिए सेवा में नियोजित करने के बारे में कोई नियम समय के लिए संविदा थी या नहीं। इस संबंध में अप्राणीगण की ओर से जो यह कहा गया है कि जो कैलेंडर लेबर को लगाने समय उसे पहले सक्षम अधिकारी स्वीकृत करके सहायक यंत्रियन्ता कार्यालय में भेजा था और वह स्वीकृत भूदा टी.एल.ए. सक्षम अधिकारी द्वारा स्वीकृत करने के बाद सहायक अभियन्ता कार्यालय में प्राप्त होने पर सहायक अभियन्ता निर्माण निरीक्षण के यहाँ कार्य करने के लिए भेजा था। निर्माण निरीक्षण कार्यालय द्वारा स्वीकृत भूदा टी.एल.ए. प्राप्त होने पर उसे तार्फ करवाने के लिए कैजुअल लेबर लगाया था और उसके बखाल नोटिस बोर्ड पर एक सूचना जानकारी के लिए बर्न करने हुए नोटिस लगाता है। कैजुअल लेबर को लगते समय एक मस्टर शीट तैयार की जाती है और उसे लगाते समय बटा दिया जाता है कि उसकी उसकी सेवाएं उस संबंधित टी.एल.ए. में किंग दिन तक के लिए ली जायेंगी। उस अवधि के समाप्त होने के साथ-साथ ही उसकी सेवाएं समाप्त हो जायेंगी। इनके सड़े मुआवजा प्राणी स्वयं ने अपने शपथ पत्र में यह लिखा है कि उसे जुवाती लगाया गया था, लगते समय यह नहीं बताते थे कि दूसरी सैशन आ जायेंगी तो लगाएंगे। मस्टर रोल पर केवल अंगुठा लगाया था। सहज मस्टर रोल पर अंगुठा लगाने में यह प्रमाणित नहीं होता है कि किसी भी कैजुअल लेबर को लगाने से पहले उसे ब्रदगत करा दिया जाता था कि उसे इतने दिन के लिए लगाया जा रहा है। प्राणी ने यह भी नकारा कि ऐसा नोटिस बोर्ड पर लगाया हो कि टी.एल.ए. स्वीकृत होकर आ गई है। उसने स्पष्टतः पर अपने बयान में यह ब्यक्त किया कि जुवाती आदेश से लगाने थे और हटाते थे, यह नहीं बताते थे कि इतने दिन के लिए लगाया जा रहा है।

11. दोनों पक्षों की साक्ष्य से प्राणी श्री राम सिंह का बयान अधिक गहन और विश्वसनीय प्रतीत होता है जिसमें उनमें यह ब्यक्त किया है कि जुवाती आदेश से लगाने थे और हटाते थे। श्री सांवरनाथ ने धमनी साक्ष्य में स्पष्टतः से माना है कि कर्मचारी श्री राम सिंह और उसके बीच किसी प्रकार की सेवा संबंधी समझौता नहीं हुआ था। गोया कि एक निश्चित अवधि के लिए लगाने समय कोई सेवा संविदा हुई हो ऐसा रेलवे प्रमाणित करने में असफल रही है। फिर श्री सांवरनाथ ने इस प्रकार कोइरेजिज (ever save) उत्तर दिया है कि उसे पता नहीं कि कोई वरिष्ठता सूची बनाई या नहीं। जबकि इसके सड़े मुआवजा प्राणी ने स्पष्टतः कहा है कि उसको हटाते समय कोई वरिष्ठता सूची

नहीं बनाई गई। श्री सांवरला ने यह भी माना है कि प्रार्थी को हटाने समय उसको न्यायशाही नहीं दिया गया। इस प्रकार जब अप्रार्थीगण को ओर से इस प्रणय की कोई साक्ष्य नहीं है कि प्रार्थी को लगाने समय कोई टी.एन.ए. की कॉपी को भी या उसमें लिखित रूप में यह सूचित किया जाता है कि वह टी.एन.ए. अमुक समय के लिए है और टी.एन.ए. की समाप्ति पर उसकी सेवा स्वतः ही समाप्त हो जायेगी। प्र. डब्ल्यू-1 से यह स्पष्ट है कि प्रार्थी को 10-1-76 से 14-7-78 के बीच 22 बार लगाया व हटाया गया, इसमें यह भी स्पष्ट होता है कि इस प्रकार बार-बार हटाने व लगाने की प्रैक्टिस अनहेर लेबर प्रैक्टिस या भवति प्रार्थी का काम स्थाई प्रकृति का होना प्रतीत होता है। उसे 196-232 का वेतनमान भी दिया गया था। इस प्रकार प्रार्थी की सेवा संबंधी यह निश्चय काल के लिए होना प्रमाणित नहीं होने की सूचना में किसी अन्य कारण से भी उसकी सेवा समाप्त की गई वह जबकि छंटनी की परिभाषा में शामिल है।

12. प्रार्थी का मान्य है यह भी प्रमाणित है कि 15-7-78 के पश्चात् श्री टी.एन.ए. स्वीकार होकर आया, यद्यपि श्री सांवरला ने यह कहा है कि प्रार्थी स्वयं उसके पत्रावली नहीं भेजा मगर इससे स्पष्ट है कि 15-7-78 के टी.एन.ए. की स्वीकृति में प्रार्थी से कनिष्ठ व्यक्ति-या को रखा गया है और प्रार्थी को नहीं बुलाया गया। इसमें भी यह प्रतीत होता है कि पहले अपने पीछे जाए के सिद्धांत को उल्लंघन किया गया और अप्रार्थी रेलवे की ओर से औद्योगिक विवाद (केन्द्रीय) नियम, 1957 के नियम 77 का भी उल्लंघन किया जाना पाया जाता है क्योंकि प्रार्थी की सेवा समाप्ति पर कोई बरिष्ठता सूची भी नहीं तैयार की गई जबकि औद्योगिक विवाद (केन्द्रीय) नियम के नियम 77 के तहत ऐसा करना आवश्यक है। इस संबंध में 1984 जैव आई. सी. 615 पर अवलंब किया जाता है। इसके अतिरिक्त 1983 (ii) एन. एन. जे. 285 में यह विनिश्चित किया गया है।

"The Rule 77 was framed with a view to facilitate a retrenched workman to verify that he is not being discriminated against otherwise it may be impracticable for him to collect relevant information and enforce his right. The minimum time of seven days allowed for this purpose not unnecessarily long, for the workman should get an adequate opportunity to scrutinise the correctness of the seniority list before he is thrown out. Viewed from this angle it should be held that the requirement mentioned in Rule 77 is mandatory and its violation renders an order of retrenchment illegal."

13. आरोपित नियम 77 का प्राभावक प्रावधान होना उक्त विनिश्चयन से स्पष्ट है कि यह एक आभावक प्रावधान है अतः इस नियम की अनुपालना किया जाना अनिवार्य है। ऐसा नहीं किया जाने पर छंटनी अवैध होगी है। इस प्रकार प्रार्थी को एक निश्चित स्थिति के लिए नियोजित किए जाने के बारे में न बताना, स्थाई प्रकृति के कार्य में उसको अस्थायी तौर पर हमेशा लगाये रखना, धारा 25-एफ अधिनियम के प्रावधान के उल्लंघन में उसकी सेवा समाप्ति किए जाने के कारण ही प्रार्थी श्री राम सिंह की सेवा समाप्ति छंटनी को परिभाषा में आती है और यह छंटनी अपरोक्त कारणों से अवैध है। योग्य अधिकारी अप्रार्थी ने जो नजारे पेश की हैं वे विश्व स्तर पर अस्वीकार्य होने में उन्हें कोई अधिक लाभ नहीं पहुंचती हैं। इस तरह प्रार्थी श्री राम सिंह को छंटनी अवैध का प्रमाणित प्रमाणित पाया जाता है।

बिम्बु नं. 3:

14. जब आखिरी बिन्दु प्रार्थी के अनुतोष से संबंधित है। प्रार्थी की माध्य से प्रमाणित है कि वह उक्त समय वेतन धुंधला 196-232 में शिवाया महंगाई भत्ता पा रहा था। प्रार्थी को दिनांक 15-7-78 से सेवा भुक्त किया गया। प्रार्थी की जिरफ से यह भी प्रमाणित है कि उसको पुनः 1-10-84 से रेलवे सेवा में पुनः जो रखा गया है। इससे स्पष्ट है कि प्रार्थी दिनांक 15-7-78 से 30-9-84 तक को

परधि में अप्रार्थी द्वारा प्रार्थी को अवैध छंटनी किए जाने के कारण बेरोजगार रहा है। अतः वह उसकी सेवा समाप्ति से यानि दिनांक 15-7-78 से पुनः सेवा में लिए जाने तक की अवधि यानि 30-9-84 तक वेतन सहित सेवा में बढ़ावा होने का अधिकारी है।

15. अतः मामले में निम्न प्रकार से अवार्ड पारित किया जाता है:

यह कि रेलवे प्रशासन, उत्तर रेलवे के मण्डल कार्यालय बीकानेर के सहायक प्रभियंता द्वारा प्रार्थी श्री राम सिंह गुप्त श्री भुल्लन, कैज्यूअल मेबर की छंटनी दिनांक 15-7-78 से किया जाना अवैध घोषित किया जाता है। प्रार्थी दिनांक 15-7-78 से सेवा समाप्ति से पूर्ण के पद पर वेतन सहित बढ़ावा होने का अधिकारी पाया जाता है और यह दिनांक 15-7-78 से 30-9-84 तक सेवा समाप्ति से पूर्ण जो वेतन पा रहा था उसी वेतन धुंधला में मंहगाई भत्ते समेत ऐरियर (बकाया वेतन) पाने का अधिकारी है जो राशि वह अप्रार्थी से यानि रेलवे मण्डल कार्यालय बीकानेर में प्राप्त करेगा। इसके अतिरिक्त यदि इस दौरान प्रार्थी को कोई अन्य लाभ भी देय है तो वह भी अप्रार्थी से पावेगा। यदि इस अवधि का मुकतान वह अन्तर्गत धारा 33 सी (2) अभियन्तम प्राप्त कर चुका है तो वह इन ऐरियर में शामिल नुजरा होगा।

16. अवार्ड की प्रतिलिपि वास्ते प्रकाशन भारत सरकार को नियमानुसार भेजी जावे।

प्रताप सिंह यादव, पोस्टल अधिकारी
[मं. एन. 41012/27/84 जी. II (बी)]

का. प्रा. 3101 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसार में, केन्द्रीय सरकार उत्तर रेलवे बीकानेर के प्रबंधन से सम्बद्ध निवोधकों और उनके कर्मचारियों के बीच, अनुबंध में निश्चित औद्योगिक विवाद में औद्योगिक अधिकरण, बीकानेर के पंचाट को प्रमाणित करती है, जो केन्द्रीय सरकार को 26-9-88 प्राप्त हुआ था।

S.O. 3101.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal Jaipur, as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Northern Railway, Bikaner and their workmen, which was received by the Central Government on the 26th September, 1988.

केन्द्रीय औद्योगिक न्यायाधिकरण, जयपुर

केस नं. सी. आई. टी. 14/85

केन्द्र सरकार और मंत्रालय की अधिलक्ष्य संख्या :—एस-41012/23/84-डी. II (बी) दिनांक 6-4-85

जनरल मैकेट्री, रेलवे कैज्यूअल मेबर यूनियन, कांगा स्क्वा, बीकानेर
—यूनियन पक्ष—

बनाय

डिप्टीजगल परमनल ऑफिसर, नोर्दन रेलवे, बीकानेर।

—नियोजक

उपस्थिति

माननीय न्यायाधीश श्री प्रताप सिंह यादव, मार, एन. जे. एम.
यूनियन की ओर से : श्री मल्ल सिंह मैगर
नियोजक की ओर से : श्री लाल चंद मेहरा
दिनांक माराई :

अवधि

केन्द्र सचकार ने निम्न विवाद इन व्यापककरण को अधिनियम हेतु अपनी अधिसूचना सं. एन. 41012/23/84-डी. II (बी) दिनांक 6-4-85 के द्वारा औद्योगिक विवाद अधिनियम 1947 की धारा 10 (1) (घ) के अंतर्गत प्रेषित किया है:-

"Whether the Railway Administration of Bikaner Division, Northern Railway, Bikaner is justified in terminating the services of Shri Nisar Ahmed worker under I.C.M. Lallgarh, Bikaner w.c.f. 30-12-79. If not, to what relief is Shri Nisar Ahmed entitled to?"

2. बाद प्राप्ति निर्देशन इसे पञ्जीकृत किया गया। प्रत्येकाल को नोटिस जारिये पंजीकृत डाक दिया गया। प्रार्थी युनियन की ओर से निम्न स्टेटमेंट आफ क्लेम प्रस्तुत किया गया। यह कि कर्मचारी निम्न अहमद पुत्र श्री कैज ग्रहमर दिनांक 10-4-77 को कार्य निरीक्षक बीकानेर के कार्य क्षेत्र में लगा हुआ था। उसके पश्चात् कार्य निरीक्षक अलीगढ़ बीकानेर कार्य क्षेत्र में बदल दिया गया और उसे मेहनत के कार्य पर लगाया। आगे व्यक्त किया कि प्रार्थी ने दिनांक 18-4-77 से 30-12-79 तक लगातार मेहनत का कार्य किया उसके पश्चात् प्रार्थी एक क्लेण्डर वर्ष में 240 दिन से अधिक लगातार कार्य कर औद्योगिक कर्मकार हो गया। कार्य निरीक्षक अलीगढ़ बीकानेर ने प्रार्थी से प्रार्थी की सेवा दिनांक 30-12-79 को गणना पञ्चात मासिक रूप से आवेग देकर समाप्त कर दी, जो छुट्टी की परिभाषा में आती है। प्रार्थी की छुट्टी करते समय उसे छुट्टी का मुआवजा नहीं दिया गया न ही सेवा समाप्ति का नोटिस प्रार्थी को दिया गया। इस प्रकार कार्य निरीक्षक अलीगढ़ में प्रार्थी कर्मकार को अवैध रूप से सेवा समाप्त की। आगे यह भी व्यक्त किया कि उसकी सेवा समाप्ति के समय कर्मचारियों की वरिष्ठता सूची घोषित नहीं की गई और पड़ने आगे पीछे जाये के सिद्धान्त का पालन भी नहीं किया न ही। इस छुट्टी वागत भारत सरकार को निश्चित फार्म "बी" में सूचना दी गई। यह भी आरोप लगाया कि रेलवे प्रशासन के स्टार्ड आदेश दिनांक 31-1-81 जिसके अनुसार इस विधि तक रोके गये कर्मचारियों को नियमित किया जाने, का भी उल्लंघन किया गया। प्रार्थी ने युनियन के माध्यम से अपना औद्योगिक विवाद उठाया मगर समझौता बर्तन असफल हुई और केन्द्रीय सरकार के श्रम विभाग ने यह विवाद इन व्यापककरण को वास्ते अधिनियमार्थ प्रस्तुत किया। उसने रेलवे के मंडल कायिक अधिकारी एवं अन्य की ओर से श्री बालचंद मेहरा ने स्टेटमेंट आफ क्लेम का उत्तर निम्न प्रकार से पेश किया। यह कि प्रार्थी निम्न अहमद को अलीगढ़ कैजुअल लेबर दिनांक 18-4-77 को लगाया गया था जिनसे दिनांक 30-12-79 तक कार्य किया मगर बीच बीच में वह कार्य पर नहीं आया और उसने स्वीकृत दी। एक, ए. के बिगुड काम किया। पैरा सं. 2 में कार्य करने की निम्न निधियों का विस्तृत वर्णन दिया। आगे से व्यक्त किया गया कि प्रार्थी ने दिनांक 10-12-78 को बिना कोई सूचना दिये बिना कोई कारण बताये स्वयं नौकरी छोड़ दी। उसके पश्चात् भी उसे दिनांक 1-5-79 को बैतौर कैजुअल लेबर के लगा दिया गया क्योंकि वह स्वयं ही नियोजन के लिए आया था। परन्तु इस अवधि के दौरान भा उसने केवल 82 दिन तक कार्य किया और फिर प्रत्येक इच्छानुसार वह काम को छोड़ गया और उसके बाद वह कभी भी काम पर लौटकर नहीं आया। आगे यह व्यक्त किया कि प्रार्थी ने दिनांक 30-12-79 से पूर्व एक क्लेण्डर वर्ष में 240 दिन नहीं काम किया 82 दिन बाद किया इसलिए इस तथ्य को नकारा कि प्रार्थी एक औद्योगिक कर्मकार है। इस तथ्य को भी नकारा कि कार्य निरीक्षक अलीगढ़ ने प्रार्थी की सेवायें जुबानी आदेश से समाप्त कीं ही। कर्मकार से सेवा समाप्ति से पूर्व एक साल की अवधि में 240 दिन तक काम नहीं किया तथा इस कारण से उसे नोटिस दिया जाना आवश्यक नहीं था और न ही उस छुट्टी का मुआवजा मिले जाने की कोई आवश्यकता होगी। निदेशों तौर से इस परिस्थिति में जब कि वह रखे ही कार्य छोड़कर गया था

इस तथ्य को भी नकारा कि प्रार्थी किसी कनिष्ठ व्यक्ति की उसकी सेवा समाप्ति के बाद लगाया गया हो। अतिरिक्त पैरा में यह व्यक्त किया गया कि प्रार्थी को बैतौर कैजुअल लेबर के लगाया गया था और ऐसा करने का कोई विहित में सेवा नविदा भूमाश्रित नहीं था जब कार्य समाप्त हो गया तब प्रार्थी की सेवा समाप्त हो गई और छुट्टी नहीं की गई। प्रार्थी स्वयं ने अज्ञातक बिना सूचना के काम छोड़ दिया और इस कारण से भी वे छुट्टी की परिभाषा में नहीं आता है। अंत में प्रार्थी का कि प्रार्थी का क्लेम खारिज किया जावे।

3. प्रार्थी ने अपने क्लेम की सम्पूर्ण में स्वयं का शपथ पत्र पेश किया जिसे इस व्यापककरण द्वारा स्थापित किया गया और विपक्षी के अधिवक्ता ने प्रार्थी से जिरह की। प्रार्थी रेलवे की ओर से श्री नाबालाल आर्ही, श्री. डब्ल्यू. पेन हुआ, जिसका बयान व्यापककरण में लिया गया एवं इस गवाह से प्रार्थी के अधिकृत प्रतिनिधि ने जिरह का। व्यापककरण के समक्ष विचारणीय प्रश्न यह है कि आया प्रार्थी निम्न अहमद, जो नरकारणीय समय में आई. श्री. डब्ल्यू. सावगुड बीकानेर के अधीन कार्य कर रहा था की सेवा समाप्त करना व्यापककरण था या नहीं। इस संदर्भ में प्रार्थी निम्न अहमद का शपथ पत्र काबिल गौर है। प्रार्थी ने व्यक्त किया वे रेलवे सेवा में दिनांक 18-4-77 को कार्य निरीक्षक बीकानेर के कार्य क्षेत्र में लगा था बाद में कार्य निरीक्षक अलीगढ़ बीकानेर में उसे बदल दिया गया था मेहनत के कार्य पर लगा था। आगे व्यक्त किया कि उसने दिनांक 18-4-77 से 30-12-79 तक लगातार समय समय पर मेहनत का कार्य किया। उसे वेतन 260-400 एवं संतुष्टाई भत्ता दिया जा रहा था। आगे प्रार्थी ने लिखाया कि उसने 19-2-77 एवं 78 में एक क्लेण्डर वर्ष में 210 दिन से अधिक कार्य करने के आधार पर वह लगातार कार्य करते बिना औद्योगिक कर्मकार हो गया था। आगे व्यक्त किया कि प्रार्थी की सेवा समाप्ति छुट्टी की परिभाषा में नहीं आती है। इस आधार से नियोजक व प्रार्थी के बीच औद्योगिक विवाद उत्पन्न हो गया। य भी आगे व्यक्त किया कि उसकी सेवासमाप्ति करने से पूर्व सेवा समाप्ति का नोटिस अवकाश नोटिस वेतन नहीं दिया गया न ही प्रार्थी को छुट्टी का मुआवजा दिया गया। सेवा समाप्त करने समय वरिष्ठता-सूची घोषित नहीं की गई और पड़ने आगे पीछे जाये के सिद्धान्त का पालन नहीं किया गया अंत में यह व्यक्त किया कि प्रार्थी की सेवा दिनांक 30-12-79 को दोपहर के बाद कार्य निरीक्षक बीकानेर द्वारा अनधिकृत अनुसूचित एवं अवैध रूप से रेट्रैन्स (छुट्टी की गई इस कारण से प्रार्थी सेवा समाप्ति से पूर्व पर एवं पूर्ववेतन सहित पुनः सेवा में स्थापित किये जाने का अधिकारी है। प्रार्थी युनियन को प्रार्थी के मद्दे मुकाबिल श्री नाबालाल कार्य निरीक्षक बीकानेर ने व्यक्त किया कि वे पूर्व में अलीगढ़ में काम करता था रेलवे में कैजुअल लेबर को रखते हैं, कांड जारी करते हैं तथा अलीगढ़ इन्जीनियर उसकी स्वीकृति देते हैं। इसी अवधि के लिए कैजुअल लेबर रखते हैं। दूसरा टी. एन. ए. जब संजुग होकर आता है तब इसके बाद या वह कैजुअल लेबर हाविलर आती है तो उसे दूसरा गुरु से रख लेते हैं। टी. एन. ए. को खत्म होने की विधि कांड में लिखकर देते हैं। कांड प्रवेश एम-1 उनके यहाँ का बला हुआ है। इस कांड के कालम सं. 4 में कार्य दिवस लिखे हैं। ये ठीक हैं। दिनांक 9-12-78 को निम्न अहमद का अंतिम। कार्य दिवस था इसके बाद निम्न अहमद फिर 1-5-79 को आया था दि. 1-5-79 से 9-6-79 तक 30 दिन कार्य किया फिर 11-6-79 से 10-7-79 तक 30 दिवस, फिर 19-1-79 से 30-12-79 तक 12 दिवस आया, इस प्रकार दिनांक 1-5-79 से 30-12-79 तक 82 दिन काम किया है। जिरह में यह स्वीकार किया कि प्रार्थी ने 18-4-77 से 17-4-78 तक कुल 317 दिन काम किया। आगे यह भी कहा कि विमर्ष 1979 में आया कोई अरिष्ठता निम्न कर्मचारियों की निष्काफी गई थी या नहीं। आगे जाहिर किया कि जब नया टी. एन. ए. आता है तो उसकी जार से लेबर को सूचना नहीं दी जाती लेबर संघ भी आता है। यह भी व्यक्त किया कि आगे सरकार की कोई सूचना दे नहीं देता। यही वह वाद आया कि प्रार्थी निम्न अहमद को 30-12-79 को कोई पैसेट किया गया था नहीं इसका उसे पता नहीं।

4. उपरोक्त साक्ष्य के विवेचन से यह प्रमाणित हो जात है कि दिनांक 18-4-77 से 17-4-78 तक प्रार्थी निसार अहमद ने बतौर केजुअल लेबर के काम किया, उसके पश्चात दिनांक 1-5-79 से लेकर 30-12-79 तक कुल 80 दिन कार्य किया। इस साक्ष्य से ये तो भलीभांति विदित है कि सन् 1977-78 में प्रार्थी निसार अहमद ने मैगन का कार्य करते हुए 240 दिन तो पूरे करलिये मगर अगले कलेण्डर वर्ष में 30-12-79 तक 240 दिन पूरे नहीं होते हैं। इस कारण से धारा 25एफ औद्योगिक विवाद अधिनियम मौजूदा केस में लागू नहीं होता है। पर यह देखना है कि आया कि धारा 25(जी) के तहत प्रार्थी निसार अहमद लाभ पा सकता है या नहीं। इस संबंध में योग्य अधिकृत प्रतिनिधि ने बहस की कि प्रार्थी निसार अहमद का नियोजक या तो जनरल मैनेजर उत्तर रेलवे था या चीफ एक्जीक्यूटिव आफिसर जो उस महकमे में कार्य कर रहा था उसको प्रार्थी को हटाने का अधिकार था। इस संबंध में योग्य अधिकृत प्रतिनिधि ने धारा 2 (जी) (ii) को निर्देशित करते हुए बहस की कि प्रार्थी निसार अहमद को नियोजक के संबंध में धारा -2 (जी) लागू होती है। योग्य अधिकृत प्रतिनिधि ने बहस की कि डी. पी. ओ. जो कि चीफ एक्जीक्यूटिव आफिसर था उसे प्रार्थी निसार अहमद की सेवा समाप्ति कर कोई आदेश नहीं दिया निरीक्षक कार्य जितने कि प्रार्थी निसार अहमद को हटाया वह क्लास -III का पदाधिकारी है इसलिए सेवा समाप्ति करने वाला व्यक्ति इस प्रकार की सेवा समाप्ति करने के लिए अधिकृत नहीं था और एक बिना अधिकृत व्यक्ति के द्वारा किसी भी कर्मकार की सेवा समाप्ति की जाती है वह कोम्प्लेंट ऑथोरिटी के द्वारा सेवा समाप्ति करने नहीं रहता है। इस संबंध में योग्य अधिकृत प्रतिनिधि ने 1981 लेब. आई. सी. 1196 पर भरोसा किया है। डब्ल्यू एल एन (यू. सी.) 1978 पेज 223 स्टेट बनाम विनय कुमार में यह विनिश्चित किया गया है कि जहां एक कलेण्डर वर्ष में 240 कार्य दिवस पूरे न होने के कारण धारा 25 एक लागू नहीं होता है वहां 25जी लागू हो जाती है। योग्य अधिकृत प्रतिनिधि प्रार्थी ने बहस की कि यदि सेवा समाप्ति से पूर्व के एक कलेण्डर ईयर में या तो कर्मकार द्वारा 240 दिन होना प्रमाणित भी नहीं पाया जाता है तो भी धारा 25जी स्पष्टित धारा केन्द्रीय औद्योगिक विवाद नियम 77 की सह से विरुद्धता लिस्ट ना पब्लिश करने और केन्द्रीय सरकार को सूचना न भेजने के कारण प्रार्थी की सेवा समाप्ति अवैध है। औद्योगिक विवाद नियमों का नियम 77 एक प्राप्तिप्राप्त प्रावधान है वहां 1984 लेब. आई. सी. 646 पर अवलम्ब किया गया है। और इस कारण से भी वह सेवा में बहाल होने योग्य है। योग्य अधिकृत प्रतिनिधि अप्रार्थी रेलवे ने बहस की कि प्रार्थी एक स्वीकृत टी. एस. ए. के तहत कार्य कर रहा था जो कि निश्चित अवधि तक था और उस टी. एस. ए. को अवधि समाप्ति होने पर स्वतः ही उसकी सेवा समाप्ति हो जाती है। प्रार्थी स्वयं एक अस्थायी कर्मकार था। ऐसी रसूत में उसको नोटिस दिया जाना या नोटिस अवधि का वेतन दिया जाना या छंटनी का मुआवजा दिया जाना आवश्यक नहीं था। पहले आये पीछे जाये का सिद्धान्त भी प्रार्थी के फेस में लागू नहीं होता क्योंकि प्रार्थी ने ऐसा कुछ प्रमाणित नहीं कराया कि उससे कोई कनिष्ठ व्यक्ति रख लिया गया हो और उसकी सेवा समाप्ति कर दी गई हो में योग्य अधिकृत प्रतिनिधि रेलवे के तर्क से सहमत नहीं हैं।

5. रेलवे की ओर से पेश किये गये जवाब का पंरा सं. 2 में वे सभी तिथियां लिखी है जिन दिनों प्रार्थी ने कार्य किया। इस कार्य अवधि के विवरण से यह स्पष्ट है कि प्रार्थी ने 18-4-77 से 6-7-77 तक, 8-7-77 से 26-7-77 तक, 30-9-77 से 3-11-77 तक, 5-11-77 से 8-1-78 तक, 9-1-78 से 11-3-78 तक, 18-3-78 से 30-8-78 तक, 1-4-78 से 11-4-78 तक 12-4-78 से 21-4-78 तक, 22-4-78 से 14-7-78 तक, य 15-11-78 से 9-12-78 तक कार्य किया व उसके पश्चात 1-5-77 से 9-6-77 तक, 11-6-79 से 10-7-79 तक एवं 20-12-79 से 30-12-79 तक कार्य किया है। इस प्रकार प्रार्थी निसार अहमद को 13 बार कार्य पर बुलाया गया और बार बार काम पर बुलाना और हटाने को गृहचाल रखते हुए में इस परिणाम पर पहुंचता हूं कि इस प्रकार बार बार लगाने

और हटाने से ये एक अनेफेयर लेबर प्रॉब्लम थी। मौजूदा केस में धारा 25 एफ का वाइोलेशन (Violation) तो नहीं होता है क्योंकि 30-12-79 से पूर्व एक कलेण्डर ईयर में 240 दिन प्रार्थी के द्वारा कार्य करना प्रमाणित नहीं होता है। मगर यह बात अवश्य काबिल गौर है कि सेवा समाप्ति के पूर्व कलेण्डर ईयर की अवधि से पहले प्रार्थी निसार अहमद 240 दिन कार्य दिवस पूरे कर चुका था और वह उसी समय लगातार काम करने वाला औद्योगिक कर्मकार हो गया था। प्रार्थी ने उसके प्रतिपरीक्षण में यह साफ तौर से व्यक्त किया कि उससे कनिष्ठ व्यक्ति था हरिबल्लभ व था तिकाडी को रखा गया इससे पहले आये पीछे जाये सिद्धान्त की परिपालना करना प्रतीत नहीं होता है। और उसे हटा दिया गया प्रार्थी की साक्ष्य से ये भी प्रमाणित नहीं है कि प्रार्थी दिनांक 30-12-79 को स्वयं काम छोड़कर गया हो। यहा धारा 25 जी के साथ औद्योगिक विवाद केन्द्रीय नियम 1957 का नियम 77 काबिल गौर है जो निम्न प्रकार है।

"The employer shall prepare a list of all workmen in the particular category from which retrenchment is contemplated arranged according to the seniority of their service in a conspicuous place in the premises of the industrial establishment at least seven days before the actual date of retrenchment."

6. यहां विपक्षी रेलवे प्रबंधकों द्वारा निसार अहमद का 30-12-79 से छंटनी किये जाने से पूर्व ऐसी कोई विरुद्धता सूची रेलवे की स्थापना-शाखा के अंदर सात दिन पूर्व लगाना प्रमाणित नहीं हुआ है। एफ. एल आर (बी-42) 1981 में ये विनिश्चित किया गया है कि—

"Section 25G will get attracted to all cases of retrenchment and the procedure laid down there insisting on the observance of the principle of last come first go will have to be strictly followed by the employer if the retrenchment is to be regarded as valid save in cases covered by the last portion of the section namely, where for reasons to be recorded the employer retrenches any other workman".

Accordingly we hold that the provisions of Section 25G are applicable in respect of temporary employees like the petitioner who were appointed by the Kerala State Road Transport Corporation at reserved Conductors on purely temporary basis.

उक्त विनिश्चयन में यह तय किया गया है कि यदि किसी अस्थायी कर्मचारी को एक विनिश्चित समय के लिए नियोजित किया जाता है तो भी उसकी सेवा समाप्ति एक छंटनी की परिभाषा में आती है और वहां 240 दिन एक कलेण्डर वर्ष में कार्यदिवस प्रमाणित नहीं भी होते है तो भी 25जी अधिनियम लागू होता है। उक्त विनिश्चयन को देखते हुए प्रार्थी निसार अहमद की सेवा समाप्ति में धारा 25(जी) का एवं औद्योगिक विवाद केन्द्रीय नियम 1957 के नियम 77 का उल्लंघन पाया जाता है। 1984 लेब आई. ई. 445 में भी यह विनिश्चित किया गया है कि बोम्बे डिस्ट्रिक्ट डिस्पूट रूलस नियम 81 जो कि विरुद्धता सूची पब्लिश करने के बारे में नियम है, में यह निश्चित किया गया है कि—

"Requirement regarding maintenance of seniority list—strictly compliance is necessary."

7. इस प्रकार प्रार्थी निसार अहमद की सेवासमिति दिनांक 30-12-79 को एक अवैध छंटनी पाई जाती है और धारा 25 जी औद्योगिक विवाद अधिनियम के तहत प्रार्थी उसकी सेवा समाप्ति की तिथि से उसके पूर्व पदभार वेतन सहित बहाल होने का अधिकारी पाया जाता है। अतः प्रार्थी के पक्ष में निम्न अवार्ड पारित किया जाता है कि—

यह कि उत्तर रेलवे प्रबंधक बोकारे मंडल द्वारा श्री निसार अहमद को उस समय लालगढ़ कार्य निरीक्षक के तहत काम कर रहा था कि सेवा दिनांक 30-12-79 को समाप्त करना अवैध था। प्रार्थी निसार अहमद पुनः श्री फौज मोहम्मद निवासी बीकानेर की सेवा समाप्ति दिनांक

30-12-79 से उसकी सेवा समाप्ति से पूर्व पद पर वेतन सहित बहाल होने का अधिकारी है व दिनांक 31-12-79 से सेवा में बहाल किये जाने तक बैंक बैजज नियमानुसार पावेगा और इस दौरान में यदि कोई अन्य देय लाभ उत्पन्न हुआ है वह भी वह पाने का अधिकारी होगा। उक्त आशय का अवार्ड पारित किया जाता है, जिसे वास्ते प्रकाशनार्थ अंतर्गत धारा 17(1) अधिनियम केन्द्र सरकार को भेजा जाये।

प्रताप सिंह यादव, न्यायाधीश
[स. एल. 41012/24/84 डी. II-बी]

का.आ. 3102.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार उत्तर रेलवे प्रशासन बीकानेर के प्रबन्धक से सम्बद्ध नियोजकों और उनके कर्मचारियों के बीच, अनुबंध, में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जयपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 26-9-88 को प्राप्त हुआ था।

S.O. 3102.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Jaipur, as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Northern Railway Administration Bikaner and their workmen, which was received by the Central Government on the 26-9-88.

केन्द्रीय औद्योगिक न्यायाधिकरण, जयपुर

केस नं. सी.आई.टी. 11/1985

रैफरेंस : भारत सरकार, श्रम मंत्रालय, नई दिल्ली की आज्ञा दिनांक 20-3-85 कमांक एल. 41011(1) 9/84-डी-2 (बी)

श्री रामेश्वर दास पुत्र श्री नारायण दास द्वारा रेलवे कैंज्युअल वर्कर्स यूनियन, बीकानेर

—प्रार्थी

बनाम

- (1) महाप्रबन्धक, नोर्दन रेलवे, मुख्यालय बड़ोदा हाउस, नई दिल्ली।
- (2) मंडल रेलवे प्रबन्धक, नोर्दन रेलवे, बीकानेर।
- (3) मंडल कामिक अधिकारी, नोर्दन रेलवे, बीकानेर।
- (4) सहायक अभियन्ता, नोर्दन रेलवे, बीकानेर।

—अप्रार्थी

उपस्थिति

प्रताप सिंह यादव, आर.एच.जे.एस.

प्रार्थी यूनियन की ओर से

श्री भरत सिंह सेंगर

अप्रार्थी की ओर से :

श्री पी.पी. सिंह

दिनांक अवार्ड :

21-7-88

अवार्ड

भारत सरकार, श्रम मंत्रालय, नई दिल्ली के डेस्क आफिसर को जरिए उपरोक्त आज्ञा निम्न विवाद इस न्यायाधिकरण को वास्ते अधि-निर्णय अन्तर्गत धारा 10(1)(ब) की उप धारा 2 (ए) औद्योगिक विवाद अधिनियम 1947, जिसे तत्पश्चात् अधिनियम लिखा जायेगा, भेजा है :

“Whether the action of the Railway Administration of Northern Railway Bikaner, Divisional Office, Bikaner in terminating the services of Shri Rameshwar Das S/o Narain Das Casual worker, under PWI Lalgah w.e.f. 8-8-82 is justified? If not to what relief the said worker is entitled to?”

2. बाद जारी करने नोटिस द्वारा पंजीकृत डाक, प्रार्थी यूनियन की ओर से श्री भरत सिंह सेंगर ने स्टेटमेंट आफ क्लेम पेश किया जो इस प्रकार है : यह कि श्री रामेश्वरदास दिनांक 29-10-77 को सहायक अभियन्ता, नोर्दन रेलवे, बीकानेर एवं कार्य निरीक्षक, लालगढ़ को देख रख में मैसन के पद एवं कार्य पर बतौर कैंज्युअल लेबर नियुक्त हुआ और उसने दिनांक 8-8-78 तक कार्य किया। उसे मैसन का ही वेतन दिया गया। प्रार्थी श्री रामेश्वर दास एक कलेण्डर वर्ष में 240 दिन से अधिक काम करने के आधार पर लगातार काम करने वाला एक औद्योगिक कर्मकार हो गया। इस कर्मचारी की सेवा दिनांक 8-8-78 से बाद दोपहर शोषिक रूप से समाप्त कर दी गई। आगे यह भी व्यक्त किया कि इस कर्मचारी की सेवा समाप्ति नोटिस अथवा नोटिस से, तथा शक्तिपूर्ति मुआवजा दिये बिना ही समाप्त कर दी। दूरिष्टता सूची भी घोषित नहीं की गई तथा पहले आये पीछे जाये के सिद्धांत की परिपालना भी नहीं की गई। यह भी कहा कि भारत सरकार को निर्धारित फार्म पर छंटनी बाबत सूचना भी नहीं दी गई। श्री रामेश्वर दास ने रेलवे कैंज्युअल लेबर यूनियन जिधका कि वह मदद है, के माध्यम से अपना औद्योगिक विवाद चलाया जिसमें असफल वार्ता रिपोर्ट के आधार पर यह निर्देशन इस न्यायालय को वास्ते अधिनियम भेजा गया है। अतः यह प्रार्थना की कि प्रार्थी को सेवा समाप्ति से पूर्व मैसन के पद पर पुनः बहाल किया जाये और उसे मैसन के पद का वेतन 260-400 की वेतन शृंखला में समस्त अन्य लाभ सहित दिलाया जाये।

3. अप्रार्थीगण की ओर से रेलवे मण्डल कामिक अधिकारी हैं स्टेटमेंट आफ क्लेम का उत्तर निम्न प्रकार से पेश किया। यह स्वीकार किया कि प्रार्थी श्री रामेश्वरदास को बतौर कैंज्युअल लेबर के 29-10-77 को नियोजित किया गया और उसे दिनांक 8-8-78 तक अर्द्धविराम के साथ काम पर लगाया जाता रहा। इन तथ्यों को इकार किया कि प्रार्थी की सेवा 8-8-78 से समाप्त की गई। जिस टी.एल.ए. के विरुद्ध प्रार्थी को लगाया गया था उसकी सक्षम अधिकारी द्वारा स्वीकृति 8-8-78 तक ही थी इसलिए प्रार्थी ने स्वयं ही 8-8-78 के बाद काम करना बंद कर दिया क्योंकि न तो कोई कार्य ही था और न स्वीकृत टी.एल.ए. ही था। इस संबंध में यह भी स्पष्ट किया कि प्रार्थी का नियोजन आंतरायिक प्रवृत्ति का था। जब एक विशेष कार्य की अवधि समाप्त हो गई तो प्रार्थी की सेवा समाप्ति का प्रश्न ही पैदा नहीं होता। यह भी एतराज किया कि जबकि प्रार्थी की सेवा समाप्त नहीं की गई तो कोई औद्योगिक विवाद उत्पन्न होने का प्रश्न ही पैदा नहीं होता। यह भी जवाब में व्यक्ति किया कि प्रार्थी स्वयं इस तथ्य की जानकारी रखता था कि उसे कुछ विशेष अवधि के लिए लगाया जा रहा है और उस अवधि की समाप्ति पर स्वतः ही उसका काम बंद हो जायेगा। अंत में यह व्यक्त किया कि प्रार्थी सेवा में बहाल होने का अधिकारी नहीं है, न ही वे मैसन का ग्रेड रु. 260-400 पाने का अधिकारी है।

4. अतिरिक्त प्लोज में यह एतराज लिया कि प्रार्थी का क्लेम अवधि भार है। यह निर्देशन कानून की दृष्टि में सही नहीं है। प्रार्थी को बतौर कैंज्युअल लेबर के बिना किसी लिखित संविदा के एक विशेष कार्य के लिए लगाया गया था जो समाप्त होने पर प्रार्थी का कार्य समाप्त हो गया और उसकी सेवा समाप्ति छंटनी की परिभाषा में नहीं आती है।

5. प्रार्थी ने अपने कथन की संपुष्टि में स्वयं का शपथ पत्र पेश किया है जिससे अप्रार्थीगण के योग्य अधिवक्ता न प्रति-परीक्षण किया। विपक्षी की ओर से श्री सावर मल लाल, ईसपक्टर आफ वर्क्स ग्रेड 3, बीकानेर ने अपना शपथ पत्र पेश किया। योग्य अधिकृत प्रतिनिधि प्रार्थी ने उससे जिरह की।

6. मैने वहस योग्य अधिकृत प्रतिनिधि प्रार्थी एवं योग्य अधिवक्ता अप्रार्थीगण मुनी है। पत्रावली का ध्यातपूर्वक अध्ययन किया है।

7. न्यायालय के समक्ष विचारणीय प्रश्न यह है कि आया प्रार्थी श्री रामेश्वर दास एक कैलेंडर वर्ष में 240 दिन से अधिक कार्य कर एक वर्ष में निरन्तर कार्य करने वाला औद्योगिक कर्मकार हो गया था। दूसरे आया प्रार्थी की सेवा समाप्ति अवधि रूप से की गई जो छंटनी की परिभाषा में आती है। तीसरे प्रार्थी क्या अनुलोप पाने का अधिकारी है।

8. उपरोक्त विचारणीय बिन्दुओं को एक-एक करके देखते हैं। प्रथम प्रश्न प्रार्थी श्री रामेश्वर दास का एक कैलेंडर वर्ष में 240 दिन से अधिक कार्य कर निरन्तर कार्य करने वाला कर्मकार होने के बारे में है। इस संबंध में श्री रामेश्वर दास ने उसके शपथ पत्र में यह व्यक्त किया कि वह रेलवे की सेवा में 29-10-77 को सहायक अभियन्ता, नोर्दन रेलवे बीकार एवं कार्य निरीक्षक नोर्दन रेलवे लाल गढ़ में मैसन के पद एवं कार्य पर बतौर कैजुअल लेबर के नियुक्त हुआ। उसे मैसन का ही वेतन दिया गया। यह भी कहा कि उसे 29-10-77 से 8-8-77 तक लगातार उसने मैसन का कार्य किया। यह भी कहा कि उसकी सेवा समाप्ति के समय उसका वेतन 260-400 की वेतन धृखला में था। आगे कहा कि उसने 1977-78 में एक कैलेंडर वर्ष में 240 दिन से अधिक कार्य करने के आधार पर वह औद्योगिक कर्मकार हो गया और उसने उसके कार्य दिवस के चार्ट को (प्रदर्श-डब्ल्यू-1) को प्रमाणित कराया। आगे बयान में यह भी लिखा कि उसकी सेवा रिटायरमेंट के तौर पर समाप्ति की गई जो अनुचित, अवैध एवं अनाधिकृत रूप से समाप्त की गई है। इसके मद्दे मुकबिल श्री सावर लाल इसैक्टर आफ वर्क्स 3 में उसके शपथ पत्र में यह लिखा कि सन 1977-78 में जनवरी 1978 तक वह एस. ओ. एस. व फरवरी 78 से इन्स्पेक्टर आफ वर्क्स ग्रेड 3 के पद पर लाल गढ़ में कार्यरत था और उसे इस प्रार्थना पत्र के संबंध में व्यक्त किया कि प्रार्थी ने रेलवे में बतौर कैजुअल लेबर के समय समय पर अप्रार्थी के यहां कैजुअल व सीजनल लेबर के तौर पर कार्य किया। आगे यह भी व्यक्त किया कि कैजुअल लेबर को टी.एल.ए. में लगाते समय बता दिया जाता है कि उसको इन टी.एल.ए. में लगाया जा रहा है और उस टी.एल.ए. की अवधि किमतिन समाप्ति होनी है और उसको उस अवधि के लिए ही लगाया जा रहा है। उस अवधि के समाप्ति होने के साथ ही उसकी सेवा स्वतः ही समाप्त हो जाएगी। इस संबंध में यह व्यक्त किया कि उस संबंधित टी.एल.ए. पर क्या वक़्त का कार्य करना है, सब विवरण मालूम रहता है, इस प्रकार उसको जुबानी नोटिस दिया जाता है कि उसकी सेवाएं कब तक ली गई हैं तथा कब तक कार्य करना है। यह भी कहा कि प्रार्थी को सक्षम अधिकारी द्वारा किसी निश्चित अस्थायी कार्य करवाने के लिए टैम्पेरी लेबर एप्लीकेशन स्वीकृत करता है, फिर उस कार्य को करवाने के लिए संबंधित कार्यालय में भेज देता था। आगे कहा कि सन 1977-78 में आई. ओ. डब्ल्यू. श्री मोहन लाल बोहरा थे जिनका रेलवे सेवा से निवृत्त होकर स्वर्णवास हो चुका है, और स्वयं को श्री बोहरा के नीचे जनवरी 78 तक कार्य करना व्यक्त किया। श्री सावर बाल ने उसके प्रति परीक्षण में कहा एवं स्वीकार किया कि स्टेटमेंट प्र. डब्ल्यू. -1 में जो प्रार्थी द्वारा किए गए कार्य के दिवस लिखे हैं वह सही हैं। प्र. डब्ल्यू. -1 में 29-10-77 से 8-8-78 तक 252 कार्य दिवस बतते हैं इस प्रकार अप्रार्थी रेलवे के गवाह से प्रार्थी श्री रामेश्वर दास का 29-10-77 से 8-8-78 तक बतौर कैजुअल लेबर (गैसन) काम करना प्रमाणित होता है। इस तथ्य को किसी प्रकार चुनोती नहीं दी गई है कि रेलवे एक उद्योग है और इस उद्योग में प्रार्थी श्री रामेश्वर दास ने 8-8-78 से एक वर्ष पूर्व की अवधि में 240 दिन से अधिक निरन्तर कार्य किया है। प्रार्थी ने उसके कार्य दिवस प्र. डब्ल्यू. -1 में अंकित होना बताया जिन्हें श्री सावरलाल ने सही होना माना है। इस प्रकार यह भली भांति प्रमाणित है कि प्रार्थी श्री रामेश्वर दास ने उसकी सेवा समाप्ति 8-8-78 से पूर्व एक कैलेंडर वर्ष में 240 दिन से अधिक कार्य किया और वह इस प्रकार रेलवे उद्योग में निरन्तर कार्य करने वाला औद्योगिक कर्मकार हो गया।

9. दूसरा बिन्दु काबिल गौर यह है कि क्या प्रार्थी की सेवा समाप्ति छंटनी की परिभाषा में आती है और क्या उसकी सेवा समाप्ति अवधि, अनुसूचित एवं अनाधिकृत रूप से की गई। प्रार्थी श्री रामेश्वर दास ने यह स्पष्ट तौर से कहा कि उसकी सेवा छंटनी के तौर पर समाप्ति की गई जो अनुचित एवं अवैध है। इस संबंध में उा ने यह भी व्यक्त किया कि उसे सेवा समाप्ति का नोटिस या उसके बदले में नोटिस अवधि की तनख्वाह और ना ही छंटनी का मुआवजा ही दिया गया। इसके मद्दे मुकबिल अप्रार्थीगण की ओर से यह संप्रति गुजारी गई है कि प्रार्थी को एक निश्चित अवधि के लिए अस्थायी तौर पर बतौर कैजुअल लेबर के काम पर लगाया जाता था और उस टी.एल.ए. जिसकी स्वीकृति पर प्रार्थी को लगाया गया था की समाप्ति पर स्वतः ही प्रार्थी की सेवा समाप्त हो जाती थी, इस प्रकार टी.एल.ए. की समाप्ति पर वह स्वयं ही काम करना बंद कर देता था। इसके अतिरिक्त यह भी बहस की कि जब टी.एल.ए. की स्वीकृति पर प्रार्थी को लगाते थे तो मास्टर रोल पर उसका अंगूठा कराते थे इसलिए उसे यह ज्ञात था कि कुछ निश्चित अवधि के लिए ही उसे लगाया जाता है और 8-8-78 के बाद कोई टी.एल.ए. स्वीकृत होकर नहीं आई इसलिए प्रार्थी की सेवा समाप्ति छंटनी की परिभाषा में नहीं आती है। योग्य अधिवक्ता अप्रार्थी ने 1978 लैब आई.सी. 909 पैरा 7 पर अवलंब किया जिसमें यह विनिश्चित किया गया है।

"The very nature of employment of work-charged or muster-roll workmen is of temporary character and therefore, it is wholly inequitable to force the employer to continue to employ them or pay retrenchment compensation instead."

10. पक्षकारान की साक्ष्य से यह प्रमाणित हो चुका है कि प्रार्थी श्री रामेश्वर दास ने एक कैलेंडर वर्ष में 240 दिवस से अधिक निरन्तर कार्य किया और कार्य भी उससे मैसन के पद का ही कराया गया और उसी पद का वेतन भी उसे मिला है।

11. 1985 लैब आई.सी. 1733 में माननीय उच्चतम न्यायालय ने यह विनिश्चित किया है।

"Striking off the name of a workman from the rolls by the employer amount to termination of service and such termination is retrenchment within the meaning of S. 2(oo) if effected in violation of the mandatory provisions contained in Section 25-F, and is invalid."

यहां यह देखना है कि क्या टी.एल.ए. निश्चित समय तक का होने के कारण प्रार्थी की सेवा समाप्ति छंटनी की परिभाषा में आती है। अप्रार्थी रेलवे के गवाह ने यह माना है कि प्रार्थी का नाम 8-8-78 के बाद किसी मास्टर रोल में नहीं है। यानि कि 8-8-78 उसके कार्य दिवस का आखिरी दिन था। नाही 8-9-78 के बाद नौकरी पर आने का प्रार्थी को कोई नोटिस दिया गया। गवाह ने यह भी माना है कि 8-8-78 को प्रार्थी की छंटनी का मुआवजा भी नहीं दिया गया। सेक्शन 2(oo) में छंटनी की परिभाषा को गौर करते हुए किसी भी नियोजक द्वारा किसी कर्मकार की सेवा सिवाय निम्न कारणों के या नि कि अनुशासनात्मक कार्यवाही कर सेवा समाप्त करना, स्वतः कर्मकार का सेवा निवृत्त होना, कर्मकार को सुपरान्युएशन की आयु पर पहुंचने पर सेवा निवृत्त होना, यदि उसके नियोजन का संविदा में यदि इस प्रकार की कोई शर्त होना, नियोजन की संविदा में कोई समय न बढ़ाने के कारण सेवा निवृत्त होना, किसी लगातार बीमारी के कारण सेवा समाप्त करना, यदि सेवा समाप्ति की जाती है तो वह इस प्रकार की सेवा समाप्ति छंटनी की परिभाषा में आती है। दौरान बहस प्रार्थी के योग्य प्रतिनिधि ने बहस की कि 8-8-78 के पश्चात भी टी.एल.ए. चलते रहे हैं मगर प्रार्थी को 8-8-78 के बाद सेवा में नहीं लिया गया। इसका कोई खण्डन जुबानी कहने के अतिरिक्त किसी विश्वसनीय साक्ष्य से नहीं किया गया है। ऐसी सूरत में यह भी प्रमाणित नहीं होता है कि 8-8-78 के बाद कोई टी.एल.ए. स्वीकृत नहीं हुई।

प्राथी ने उसके पति परीक्षण में तब स्पष्ट तौर से स्पष्ट किया है कि उसे जब लगाते हैं तो यह नहीं बताते थे कि उम टी.एल.ए. का कितने दिन की स्वीकृति प्राप्त है। उसने यह भी कहा कि उसे यह भी नहीं बताते थे कि उस स्वीकृति की समाप्ति पर स्वतः ही उसकी सेवाएं समाप्त हो जाएंगी। श्री साधरणाल ने इसके मध्ये मुकाबिल यह कहा है कि नैज-यूथ सेक्टर की उम टी.एल.ए. में लगाते समय बना दिया जाता था कि उसे संबंधित तो.एल. में लगाया जा रहा है तथा उम टी.एल.ए. की अवधि किस दिन समाप्त होगी है। यह भी कहा कि कर्मकार को यह सब डिटेल मालूम रहते थे कि कब तक उसे कार्य करना है और इसलिए जुबानी नोटिस दिया जाता है कि उसकी सेवाएं कब तक की गई हैं तथा कब तक कार्य करना है। यहां दोनों पक्ष की ओर ओपन ओपन है। प्राथी ने स्पष्ट तौर पर कहा है कि उसे जब भी लगाने हैं यह नहीं बताते थे कि उसे कब तक लगाया जा रहा है और अमुकटी. एल.ए. की स्वीकृति समाप्त होने पर स्वतः ही उसकी सेवाएं समाप्त हो जाएंगी। अप्राथी रेलवे की ओर से ऐसा दस्तावेज पेश नहीं किया गया है जिससे यह विवक्षित होना हो कि टी.एल.ए. के तहत सेवा प्रारंभ करने से पहले प्राथी को यह बता दिया जाता था कि उसकी सेवा अमुक समय के लिए है और उसे सेवा समाप्ति का जुबानी नोटिस दिया जाता था। महज मस्टर रोल पर एक अनपढ़ आदमी के अंगूठे लगाने से यह प्रमाणित होना स्वीकार नहीं किया जा सकता कि सेवा प्रारंभ करने से पूर्व उसे उम टी.एल.ए. की निश्चित अवधि के बारे में बता दिया जाता था। जहां ओपन एग्रेन्स ओपन है, ऐसी सूरत में प्राथी की बयान को स्वीकार करना न्यायसंगत मानना है और ऐसी परिस्थिति में रेलवे यह प्रमाणित करने में काबिल रहो है कि जब भी नए टी.एल.ए. पर प्राथी को लगाया जाता था उसे यह बता दिया जाता था कि उसकी सेवा संबंधित एक निश्चित समय के लिए ही है। श्री साधरणाल का यह कथन कि प्राथी को उसकी सेवा समाप्ति के संबंध में जुबानी नोटिस दे दिया जाता था, भी विषमसंगत प्रतीत नहीं होगा है। इसलिए यदि नियोजन की संविधा के मुताबिक प्राथी को उसकी अवधि समाप्ति का नहीं बताया जाता था और पहले से निश्चित नहीं किया जाता था तो ऐसी सूरत में धारा 2(100) (बी बी) का लाभ रेलवे को नहीं दिया जा सकता। और इस प्रकार मन मकसूद तरीके से प्राथी को लगाना और सेवा समाप्त कर देना ही कहा जायेगा। जब प्राथी को एक कलेण्डर वर्ष में 240 दिन से अधिक काम कराया गया और फिर सेवा समाप्ति से पूर्व एक माह का नोटिस या नोटिस देना तथा मुआवजा नहीं दिया गया या तो ऐसी सूरत में उसकी सेवा समाप्ति अवैध थी। प्र. डब्ल्यू. 1 में यह स्पष्ट है कि प्राथी को एक कलेण्डर वर्ष में 8 बार काम पर लगाया गया और हटाया गया। इसी प्रकार बार बार उस पद पर प्राथी को लगाने से उस पद का भी अस्थायी प्रकृति का होना नहीं प्रमाणित होता है। इसके विपरीत यह अवकाश लेबर प्रेक्टिस की परिभाषा से आता है कि बार बार किसी व्यक्ति को काम पर लगाकर बार बार हटाया जाता है। एक.एल.आर. 1978 (37) पर सान्तीय केरल उच्च न्यायालय ने यह विनिश्चित किया है कि जबकि कोई व्यक्ति बतौर पर अस्थायी कर्मचारी के एक नियत पोस्ट के लिए लगाया गया और उसके बाव फिली कारण से भी उसकी सेवा समाप्त की गई हो तो वह छटनी की परिभाषा में आता है।

12. प्राथी की माध्य से यह भी प्रमाणित होता है कि प्राथी की सेवा समाप्ति पर कोई बरिष्ठता सूची नहीं निकाली गई जबकि औद्योगिक विवाद (केन्द्रीय) नियम के नियम 77 के तहत यह आवश्यक है कि कर्मकार की छटनी किए जाने के बाद सात दिन पूर्व बरिष्ठता सूची निकाली जाय। इन संवध में 1984 प्रव. आई.सी. 645 पर अवलंब किया जाता है। इसके प्रतिरुद्ध 1983 (ii) एल.एल.जे. 285 में यह विनिश्चित किया गया है :

"The rule 77 was framed with a view to facilitate a retrenched workman to verify that he is not being discriminated against, otherwise it may be impracticable for him to collect relevant information

and enforce his right. The minimum time of seven days allowed for this purpose not unnecessarily long. For the workman should get an adequate opportunity to scrutinise the correctness of the seniority list before he is thrown out. Viewed from this angle it should be held that the requirement mentioned in Rule 77 is mandatory and its violation renders an order of retrenchment illegal."

13. उपरोक्त नियम 77 का आक्षेपक प्रावधान होने से उसकी पालना नहीं किया जाना अनिवार्य है। ऐसा नहीं किया जाने पर छटनी अवैध होती है। इस प्रकार प्राथी को एक निश्चित अवधि के लिए नियोजित किया जाने के बारे में न बताना और स्थाई प्रकृति के कार्य में उसकी अस्थायी तौर पर हमेशा मजाये रखना, धारा 25-एक अधिनियम के प्रावधान के उल्लंघन में उसकी सेवा समाप्त किए जाने के कारण ही प्राथी श्री रामेश्वर दाम की सेवा समाप्ति छटनी की परिभाषा में आती है तथा उपरोक्त कारणों से छटनी प्रवेध भी है। योग्य अधिवक्ता अप्राथी ने जो नजीर पेश की है वह भिन्न तथ्यों पर आधारित होने के कारण उन्हें कोई अधिक लाभ नहीं पहुंचता है। और इस प्रकार प्राथी की छटनी अवैध रूप में की जाता पाया जाता है।

14. अब आन्तरी बिन्दु प्राथी के अनुरोध में संबंधित है। प्राथी की माध्य से प्रमाणित बिन्दु प्राथी के अनुरोध से संबंधित है। प्राथी की माध्य से प्रमाणित है कि वह उस समय थेनत थ्रूथ 260-400 में मलाबा मंडलाई अता पा रहा था। प्राथी को 8-8-78 से सेवा मुक्त किया गया। उसकी जिरह से यह भी प्रमाणित है कि उसकी 28-12-83 को पुनः रेलवे वर्कशॉप सेवा में लगाया गया है, उसने स्पष्ट है कि प्राथी 8-8-79 से 28-12-83 तक की अवधि में छटनी के कारण बेरोजगार रहा। अतः उसकी छटनी के कारण वह उसकी सेवा समाप्ति से सात दिनों 8-8-78 से दिनांक 28-12-83 तक बेतन सहित सेवा में बहाल होने का अधिकारी है।

14-अतः मामले में निम्न प्रकार से अर्दा पारित किया जाता है :

यह कि रेलवे प्रशासन उत्तर रेलवे के मण्डल कार्यालय, बीकानेर के द्वारा प्राथी श्री रामेश्वर दाम पुत्र श्री लारायण दाम, केन्थ सेक्टर का तत्काल में पी. डब्ल्यू.आई. लालगढ़ के महल कार्य कर रहा था, की छटनी 8-8-78 में किए जाने अवैध था। प्राथी 8-8-78 से सेवा समाप्ति से पूर्व के पद पर बेतन रहित बहाल होने का अधिकारी पाया जाता है और यह 8-8-78 से 28-12-83 तक सेवा समाप्ति से पूर्व जो वेतन पा रहा था। उसी वेतन थ्रूथ में महुगाई अने रामेन एरिस्वर (बहाल वेतन) पाने का अधिकारी है जो राशि वह अप्राथी रेलवे मण्डल कार्यालय बीकानेर से प्राप्त करेगा। इसके प्रतिरुद्ध यदि इस आग्रह में यदि प्राथी को कोई अन्य लाभ भी देय है तो वह भी पायेगा। यदि इस अवधि का भुगतान वह अवर्गत धारा 33 सी (2) अधिनियम प्राप्त कर चुका है तो वह इन एरिस्वर में कादिल भुजरा होगा।

15. अर्दा की प्रतिनिधित्व करने सरकार को मामले प्रमाणित निष्पा-नुसार भेजी जाये।

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[च. एल. 43011/19/81 से II (बी)]
हरी मिश्र, डेप्ट अधिकारी